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RELIGIOUS-BASED HATE CRIMES

DOJ Needs to Improve Support to Colleges Given Increasing Reports on Campuses

On October 31, 2019, a sentence on pg. 14 of this report was revised to state the correct number of religious-based hate crimes reported to the Department of Education (103 in 2009 and 189 in 2017) and Department of Justice (24 in 2009 and 59 in 2017). In the original version, these numbers were transposed between the two agencies.

Why GAO Did This Study

On average, 205,000 U.S. residents report being victims of hate crimes every year, according to DOJ officials. Hate crimes, including those motivated by bias against an actual or perceived religion, can have a broader effect than other kinds of violent crimes because they target both the victim and the group the victim represents. GAO was asked to review religious-based hate crimes on college campuses.

This report reviews 1) the prevalence of religious-based hate crimes and bias incidents on college campuses; 2) what steps colleges are taking to address them; and 3) the extent to which Education and DOJ help colleges, campus law enforcement, and other stakeholders monitor and address these crimes and bias incidents.

GAO analyzed DOJ and Education hate crime data from 2009 through 2017, the years for which all relevant data are available. GAO reviewed studies to identify college practices to address this issue as well as Education and DOJ policies, programs, and resources that could help colleges, campus law enforcement, and other stakeholders monitor and address these crimes and bias incidents, and how the information is shared. GAO also interviewed representatives of 16 stakeholder groups, including college associations, campus and public safety organizations, and religious groups.

What GAO Recommends

GAO recommends that DOJ update, centralize, and share more information about its resources to help address religious-based hate crimes on college campuses. DOJ agreed with GAO's recommendations.

RELIGIOUS-BASED HATE CRIMES

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What GAO Found

Data from the Departments of Education (Education) and Justice (DOJ) show an increasing number of reported religious-based hate crimes on college campuses during the past decade. While these agencies collect slightly different data, crimes reported to Education have increased from 103 in 2009 to 189 in 2017, and crimes reported to DOJ increased from 24 to 59. These trends were largely driven by increased reports of anti-Jewish and anti-Muslim crimes, according to DOJ data. However, DOJ officials and some stakeholders GAO interviewed said DOJ data likely undercount these crimes due to underreporting. Although no federal agencies collect data on the frequency of religious bias incidents—non-criminal acts motivated by bias against a religious group—representatives of eight of the sixteen stakeholder groups GAO interviewed said the prevalence of these incidents on college campuses is also increasing.

Incident Reported to Education and DOJ as a Religious-based Hate Crime



Source: Rya Inman, Columbia Daily Spectator (photo). | GAO-20-6

In 2018, swastikas were found on the office walls of a Jewish professor who is a Holocaust scholar, according to several news outlets. The incident was reported as a religious-based hate crime to the Department of Education (Education), according to a senior college official, and to the Department of Justice (DOJ), according to a local law enforcement agent.

To prevent and respond to religious-based hate crimes and bias incidents on campuses, stakeholders GAO interviewed said some colleges have encouraged reporting, implemented new policies, and educated students and staff about their effects. Such efforts must be informed by First Amendment considerations at public colleges. Some colleges have also worked to promote religious tolerance, communicate publicly about crimes, and build relationships with religious groups.

Education and DOJ provide information and other resources to help colleges, campus law enforcement, and other stakeholders monitor and address religious-based hate crimes and bias incidents, but key DOJ information does not reflect new trends—such as changes in technology—and is difficult to find. For example, DOJ's publication most relevant to religious-based hate crimes and bias incidents on campuses and college practices to combat them was published in 2001 and does not reflect new trends or evolving college practices to address them. Further, colleges wishing to learn about DOJ resources must review almost 80 linked webpages or be routed to the homepages of five DOJ offices. DOJ officials said they share information about agency resources with colleges via newsletters, presentations, or the agency's website, but 10 out of 16 stakeholder groups GAO interviewed said they or their college members were unaware of DOJ's resources. Until DOJ makes up-to-date information easy to find and shares this information with colleges, campus law enforcement, and other stakeholders, these groups may miss opportunities to effectively use the resources to address these crimes and bias incidents.

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Abbreviations

Clery Act	Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
DOJ	U.S. Department of Justice
Education	U.S. Department of Education
FBI	Federal Bureau of Investigation
UVA	University of Virginia

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October 25, 2019

The Honorable Virginia Foxx
Ranking Member
Committee on Education and Labor
House of Representatives

The Honorable Brett Guthrie
House of Representatives

Hate crimes are criminal offenses motivated by the offender's bias against individuals or groups based on an actual or perceived protected characteristic, such as race, religion, gender, ethnicity, or sexual orientation. These crimes have a broader effect than most other kinds of violent crime because they target both the victim and the group the victim represents.¹ According to U.S. Department of Justice (DOJ) officials, on average, U.S. residents experienced about 205,000 hate crime victimizations each year from 2013 through 2017, and about half were not reported to law enforcement. Out of those that were reported to law enforcement and classified as hate crimes in 2017, approximately 1 in 5 were motivated by religious bias.²

Religious-based hate crimes can occur anywhere, including on college campuses. For example, vandalism at an on-campus Jewish student organization's office, where religious objects were destroyed and a swastika was drawn on the door, could be considered a hate crime.³ College students may also encounter incidents involving religious bias

¹Department of Justice (DOJ) "Learn about Hate Crimes," accessed July 31, 2019, <https://www.justice.gov/hatecrimes/learn-about-hate-crimes>.

²DOJ, Federal Bureau of Investigation (FBI), 2017 Hate Crime Statistics (November 2018); accessed July 25, 2019. <https://ucr.fbi.gov/hate-crime/2017/topic-pages/incidents-and-offenses>.

³Federal and state hate crime statutes can vary, and whether an incident constitutes a hate crime depends on the specific facts and circumstances.

that do not meet the definition of a crime but may still be harmful,⁴ such as anti-Muslim pamphlets distributed on campus grounds.⁵

Research on the prevalence of religious-based hate crimes on college campuses is limited. Even less is known about the prevalence at colleges of bias incidents, which are not considered hate crimes. You asked us to review these issues on college campuses and federal support from the U.S. Department of Education (Education) and DOJ to help address them. This report examines:

1. What is known about the prevalence of religious-based hate crimes and bias incidents on college campuses, including any changes in recent years?
2. What steps have colleges taken to address religious-based hate crimes and bias incidents?
3. To what extent do Education and DOJ help colleges, campus law enforcement, and other stakeholders monitor and address religious-based hate crimes and bias incidents?

To address our objectives, we analyzed hate crime data from two federal data sets for the period of 2009, the first year for which all relevant data are available, through 2017, the most recent data available.⁶ DOJ collects hate crime data through the Uniform Crime Reporting program, and Education collects hate crime data under Title IV of the Higher Education Act of 1965, as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). We reviewed documents from DOJ and Education and interviewed agency officials and other stakeholders, including associations representing colleges and campus and public safety groups, about these federal hate crime data collections. We assessed the reliability of these data sources

⁴For the purposes of this report, we generally refer to acts motivated by bias that are not crimes as “bias incidents.” Those include acts that do not involve violence, threats, or property damage, regardless of severity. This definition is similar to the definition of “bias incident” on DOJ’s hate crimes website. For simplicity, in this report we refer to all types of postsecondary institutions as “colleges.” This report focuses on crimes and bias incidents that occurred on campuses and college properties that may target students, employees, or others.

⁵As discussed more fully later in this report, at public colleges, activities such as distributing pamphlets may be protected speech under the First Amendment to the U.S. Constitution.

⁶All data in this report are recorded by calendar years.

through electronic testing and interviews with knowledgeable officials. We also examined a non-federal data source, the Anti-Defamation League's annual Audit of Anti-Semitic Incidents, which captured information on anti-Semitic hate crimes and bias incidents at various locations, including on college campuses.⁷ We assessed the reliability of this data source by reviewing documentation of the Anti-Defamation League's methodology for collecting and verifying the data and interviewing staff responsible for the data. We determined these three data sources were reliable for the purposes of describing the prevalence of hate crimes and bias incidents. We also interviewed colleges, campus and public safety associations, and religious groups, to gain a more complete understanding of the prevalence of religious-based hate crimes and non-criminal incidents motivated by religious bias.

We did not make any independent legal determinations about whether any incidents described or depicted in this report constituted hate crimes; we merely indicate whether they were reported as hate crimes to DOJ or Education. If a college determined that an incident referenced in this report constituted a bias incident under its campus policies, we describe it as a bias incident. In addition, we did not make any legal determinations about whether any particular incident described or depicted in this report constituted protected speech under the First Amendment.

We conducted a literature review to identify studies and reports that examined hate crimes and incidents of religious bias on college campuses and actions colleges have taken to address hate crimes and incidents. We also identified actions colleges have taken through interviews with officials from associations representing colleges, campus

⁷The Anti-Defamation League collects data on both criminal and non-criminal incidents of anti-Semitic harassment, vandalism, and assault against individuals and groups. This information is reported to the Anti-Defamation League by victims, law enforcement, and the media and is not an effort to capture all incidents of anti-Semitism. According to the Anti-Defamation League, it does not include anti-Israel acts in this data collection unless the act incorporates established anti-Jewish references, accusations, or conspiracy theories, or if Jewish religious or cultural institutions are targeted due to their purported support for Israel. For the purposes of this report, we refer to anti-Semitic acts as anti-Jewish to be consistent with how hate crimes are categorized in DOJ's Uniform Crime Reporting program. We did not identify any available data tracking the prevalence of bias incidents on campuses motivated by other types of religious bias, such as anti-Muslim or anti-Christian bias.

and public safety associations, and religious groups.⁸ We also visited the University of Virginia (UVA) to provide an illustrative example of policies and practices a university has developed for the purpose of preventing and responding to hate crimes and bias incidents.⁹

Further, we reviewed DOJ and Education programs and resources available to help colleges, campus and public safety organizations—which include campus law enforcement—and other stakeholders monitor and address these crimes and incidents.¹⁰ We interviewed DOJ and Education officials about these programs and resources, and reviewed DOJ resources available online on campus safety, hate crimes, and religious-based hate crimes that could be used by colleges and others. We also interviewed stakeholders to gather information on the extent to which their members know about and use these federal resources. We assessed DOJ resources and practices for sharing this information with relevant stakeholders against federal internal control standards related to sharing quality information and responding to change.¹¹ See appendix I for additional details on our scope and methodology.

We conducted this performance audit from August 2018 to October 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

⁸In total, we interviewed 16 of these groups and refer to them as “stakeholders” in our report. When discussing their views in this report, we have grouped them into the following categories: “one,” “some” (more than one and less than half), and “many” (half or more). Regarding religious associations, we interviewed leadership from six Jewish, Muslim, and Christian organizations because those religions experience the highest reported rates of hate crimes regardless of location (either on a college campus or elsewhere), according to DOJ data. We also interviewed groups working to promote interfaith cooperation at colleges.

⁹We selected the University of Virginia (UVA) because the university and the city of Charlottesville, VA where UVA is located, experienced high-profile incidents in August 2017, some of which were motivated by religious bias.

¹⁰This report focuses on DOJ and Education due to their specific focus on colleges and hate crimes. Other federal agencies may address issues of religious discrimination that fall within their purview, including some that occur on college campuses; however, a review of other agencies’ activities was outside the scope of this report.

¹¹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Hate Crimes and Bias Incidents

In general, hate crimes are criminal offenses motivated by the offender's bias against individuals or groups who share (or are perceived to share) a protected characteristic, which may include race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. According to DOJ, hate crimes are not separate, distinct crimes, but rather traditional offenses motivated by the offender's bias. There are both federal and state laws against hate crimes. For example, it is a federal crime to willfully cause bodily injury, or attempt to do so using a dangerous weapon, because of the victim's actual or perceived race, color, religion, or national origin.¹² Federal law also prohibits the intentional defacement, damage, or destruction of any religious property because of the religious character of that property.¹³ Another federal statute makes it a crime to use or threaten to use force to willfully interfere with any person participating in a federally protected activity, such as public education, because of the person's race, color, religion, or national origin.¹⁴ In addition to federal hate crime laws, as of August 2019, at least 45 states and the District of Columbia had hate crime laws and 29 states and territories required hate crime data collection, according to DOJ.¹⁵ State hate crime laws can vary, and according to DOJ, some laws provide for penalty enhancements for crimes motivated by specified factors. State

¹²18 U.S.C. § 249.

¹³The law applies to real property such as buildings, structures, or land, and under circumstances that affect interstate or foreign commerce. 18 U.S.C. § 247. Other federal statutes, in addition to those establishing hate crimes, can also be used to prosecute bias-motivated violence, according to DOJ officials.

¹⁴Federally protected activities include, among other things, enrolling in or attending any public school or public college and participating in or enjoying any benefit, service, privilege, program, facility or activity provided or administered by any state or subdivision thereof. 18 U.S.C. § 245.

¹⁵Department of Justice (DOJ) "Laws and Policies," accessed August 1, 2019, <https://www.justice.gov/hatecrimes/laws-and-policies>. State hate crime laws may vary in the specific classes of individuals they protect. For the purposes of this report, we did not review or assess state hate crime laws or states' data collection efforts.

hate crime laws are enforced by state and local law enforcement, while DOJ is responsible for enforcement of federal hate crime laws.

Colleges may also experience bias incidents—generally defined for the purposes of this report as non-criminal acts motivated by bias against a particular group. These include acts that do not involve violence, threats, or property damage, regardless of severity. This definition is similar to the definition of “bias incident” on DOJ’s hate crimes website.¹⁶ Bias incidents may include taunting, verbal harassment, and bias-motivated bullying such as posting demeaning jokes, or distributing offensive printed material or hate-group literature, according to the Anti-Defamation League.¹⁷ Although not criminal, these incidents may violate campus conduct policies. A person walking down a public sidewalk and making an offensive comment to another person because of their Sikh religion would be an example of a bias incident, according to the Anti-Defamation League. Such non-criminal bias incidents may constitute free speech activity protected under the First Amendment at public colleges (see text box).

¹⁶Department of Justice (DOJ) “Learn about Hate Crimes,” accessed July 31, 2019, <https://www.justice.gov/hatecrimes/learn-about-hate-crimes>.

¹⁷Anti-Defamation League, *Responding to Bigotry and Intergroup Strife on Campus: A Guide for College and University Presidents and Senior Administrators* (New York, NY: 2008).

Free Speech and the First Amendment

The First Amendment to the U.S. Constitution provides that “Congress shall make no law ... abridging the freedom of speech.” This prohibition applies to federal, state, and local governments, including public colleges. In addition, state constitutions may also contain provisions protecting the freedom of speech.

Under the First Amendment, the government (including entities such as public colleges) generally may not prohibit speech because of its message, ideas, subject matter, or content – even speech that may be viewed by some as offensive or disagreeable. Thus, the First Amendment broadly protects speech that may be hateful, disparaging, offensive, or repugnant, with some limited exceptions.

Free speech rights are not limited to verbal expression; speech protected under the First Amendment can include the use of “symbolic speech” or conduct that is inherently expressive, such as wearing an armband or burning a flag in order to convey a message of protest. It can also include writing, picketing, posting signs, and distributing leaflets or pamphlets, among other things.

However, violence or other types of potentially expressive activities that result in harm distinct from their communicative impact are not constitutionally protected. With respect to hate crime statutes specifically, for example, the U.S. Supreme Court has held that laws providing enhanced penalties for crimes committed with racial animus do not violate the First Amendment.

According to the Department of Justice, under the First Amendment, “people cannot be prosecuted simply for their beliefs. Many people may be very offended or upset about beliefs that are untrue or based upon false stereotypes. However, it is not a crime to express offensive beliefs or to join with others who share such views. On the other hand, the First Amendment does not permit anyone to commit a crime, just because that conduct is rooted in philosophical beliefs.”

Source: GAO analysis. | GAO-20-6

In addition, depending on the circumstances, hate crimes and bias incidents may violate other federal or state laws. This could include civil rights laws prohibiting discrimination on the basis of protected characteristics such as race, sex, disability, or religion. For example, Title VII of the Civil Rights Act of 1964 generally prohibits discrimination in employment on the basis of race, color, religion, sex, and national origin.¹⁸ Title VI of the Civil Rights Act prohibits discrimination on the

¹⁸42 U.S.C. § 2000e *et seq.* According to the Equal Employment Opportunity Commission, this may include harassment on the basis of religion if employees are subjected to unwelcome statements or conduct that is so severe or pervasive that the individual being harassed reasonably finds the work environment to be hostile or abusive. A college, as an employer, may be liable for such harassment by nonemployees if it knew or should have known about the harassment, could control the harasser’s conduct or otherwise protect the employee, and failed to take prompt and appropriate corrective action.

Federal Role in Addressing Hate Crimes and Bias Incidents

basis of race, color, and national origin in programs and activities receiving federal financial assistance.¹⁹ Although Title VI does not prohibit discrimination on the basis of religion, according to Education officials, discrimination against students associated with belonging to a particular religious group can violate Title VI when the discrimination is based on the religious group's actual or perceived ancestry or ethnic characteristics. Further, under Title IV of the Civil Rights Act, DOJ may exercise jurisdiction over complaints of religious discrimination in higher education where a student or parent alleges that the student has been denied admission to or not permitted to continue in attendance at a public college by reason of religion (among other protected bases), according to DOJ.²⁰ According to DOJ officials, a religiously-motivated hate crime that created a hostile environment could implicate Title IV.

DOJ leads the federal government's efforts to combat hate crimes, including those that occur on college campuses.²¹ DOJ supports law enforcement and community efforts to combat hate crimes through education, and by publishing resources and reports, providing technical assistance, awarding grants, and providing support to victims. Law enforcement agencies are responsible for determining whether any crime that occurs within their jurisdiction was motivated by bias against a protected characteristic. If a federal hate crime occurred, DOJ can investigate and prosecute these crimes.²²

Since 1990, DOJ has annually collected data on hate crimes, including those that are motivated by religious bias, through its Uniform Crime

¹⁹Specifically, Title VI provides that "[no] person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.S.C. § 2000d.

²⁰42 U.S.C. § 2000c-6. According to DOJ officials, complaints of religious discrimination in higher education might include allegations that students of a particular religion were discouraged from applying or denied admission to a college; or that students of a particular religion experienced a hostile environment to which the public college was deliberately indifferent, thus impeding their ability to attend the school free from discrimination.

²¹As previously discussed, DOJ also enforces Title IV of the Civil Rights Act. DOJ's activities under Title IV were outside the scope of this report.

²²Prosecutions of federal hate crimes are handled by Assistant United States Attorneys and trial attorneys from the Civil Rights Division.

Reporting program.²³ According to the Federal Bureau of Investigation (FBI), which administers the program, data submission is mandatory for federal law enforcement agencies and voluntary for state and local law enforcement agencies, including campus law enforcement. In 2017, more than 16,000 law enforcement agencies participated in the Uniform Crime Reporting program's hate crime statistics collection. For religious-based hate crimes, law enforcement agencies may report a crime as anti-Jewish, anti-Muslim, or anti-Catholic, among other religions.²⁴ The hate crime data also contains fields describing the crime's location, which could include a college; the type of crime, which could include crimes such as vandalism and intimidation; and the number and type(s) of victims, such as individuals, businesses, or religious organizations.²⁵

According to DOJ's *Hate Crime Data Collection Guidelines and Training Manual*, the mere fact that the offender is biased against the victim's actual or perceived race, religion, disability, sexual orientation, ethnicity, gender, and/or gender identity does not mean that a hate crime was

²³The Hate Crime Statistics Act, as amended, requires DOJ to collect data about crimes that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property. 34 U.S.C. § 41305, 28 U.S.C. § 534. DOJ guidance instructs participating law enforcement agencies to report offenses from their records of calls for service, complaints and/or investigations, and not the findings of a court, coroner, or jury, or the decisions of a prosecutor.

²⁴Law enforcement agencies may report up to five bias motivations per crime. For purposes of the Uniform Crime Reporting program, "religious bias" is defined as a preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being. The hate crime data collected through the Uniform Crime Reporting program also includes data on crimes motivated by anti-Buddhist, anti-Eastern Orthodox (Russian, Greek, Other), anti-Hindu, anti-Jehovah's Witness, anti-Mormon, anti-Multiple Religions, anti-Other Christian, anti-Other Religion, anti-Protestant, anti-Sikh, and anti-Atheism/Agnosticism bias.

²⁵The Uniform Crime Reporting program's school location variable historically included both elementary and secondary schools, and colleges. In 2010, the FBI added a new location variable specifically for colleges/universities; however, some law enforcement agencies continue to report crimes using the broader school location variable. For all years covered by our analysis (2009-2017), we included hate crimes captured through the "school-college/university" variable, where available, and those captured through the broader "school/college" location variable, when the crimes were reported by campus law enforcement agencies. See appendix I for more information.

involved.²⁶ Rather, the offender's criminal act must have been motivated, in whole or in part, by bias. Due to the difficulty of ascertaining the offender's subjective motivation, the manual states that a hate crime is to be reported only if an investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. According to the manual, examples of religious-based hate crimes reported under the Uniform Crime Reporting program might include:

- An auditorium used by representatives of several religious denominations to hold a conference was vandalized by unknown persons. There was extensive damage to the exterior walls of the building where statements such as "There is but one true religion!" and "Down with the nonbelievers!" were spray painted.
- A man with a "tilak"—a sacred Hindu mark on a person's forehead—was assaulted by two men with baseball bats. During the assault, the men screamed at the victim to "clean that off his head." When taken into custody, the men said they committed the assault because they want the Hindu people to go back where they came from.

DOJ also collects data on hate crimes through the National Crime Victimization Survey. The survey collects data from a nationally representative sample of victims; respondents are asked whether they believed they were victims of hate crimes, including those motivated by bias against their actual or perceived religion.²⁷

Education is responsible for overseeing colleges' compliance with the campus safety and security requirements of the Higher Education Act of

²⁶See Criminal Justice Information Services Division, Uniform Crime Reporting Program, *Hate Crime Data Collection Guidelines and Training Manual*, February 27, 2015 (Clarksburg, WV).

²⁷The National Crime Victimization Survey does not give victims the option to specify whether the reported crime occurred on a college campus. It collects other relevant information on hate crimes, such as whether the crime was reported to police.

1965, as amended.²⁸ Specifically, Education annually collects data on campus crime statistics from colleges participating in student financial assistance programs under Title IV of the Higher Education Act, as required by the Clery Act.²⁹ These statistics include reports of certain crimes committed on campus in which the victim is intentionally selected because of their actual or perceived race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, or disability.³⁰ Similar to DOJ guidance for the Uniform Crime Reporting program, Education's *Handbook for Campus Safety and Security Reporting* states that before

²⁸In addition, under Title VI of the Civil Rights Act of 1964, Education's Office for Civil Rights investigates and resolves claims of race, color, and national origin discrimination at colleges receiving federal financial assistance. As previously discussed, although Title VI does not prohibit discrimination on the basis of religion, according to Education guidance, Title VI's prohibition does include discrimination, including harassment, based on a student's actual or perceived shared ancestry or ethnic characteristics, or citizenship or residency in a country with a dominant religion or distinct religious identity. See Department of Education, Office for Civil Rights, *Know Your Rights: Title VI and Religion*; accessed August 1, 2019 <https://www2.ed.gov/about/offices/list/ocr/docs/know-rights-201701-religious-disc.pdf>. Education's activities under Title VI were outside the scope of this report.

²⁹The Clery Act requires colleges participating in student financial assistance programs under Title IV of the Higher Education Act to collect and annually publish campus crime statistics and security information, and to submit these statistics to Education. See 20 U.S.C. § 1092(f); 34 C.F.R. § 668.46. Specifically, colleges are required to include data on specified crimes that are reported to local police or campus security authorities and that occurred (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls. According to Education's *Handbook for Campus Safety and Security Reporting*, these statistics are based on reports of alleged criminal incidents; it is not necessary for the crime to have been investigated by the police or a campus security authority, nor must a finding of guilt or responsibility be made to include a reported crime in the college's crime statistics. The Handbook directs colleges to include in their crime statistics the number of all reported offenses, without regard to the findings of a court, coroner or jury, or the decision of a prosecutor. See Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting, 2016 Edition* (Washington, D.C.: June 2016).

³⁰The Clery Act requires that campus crime statistics be compiled in accordance with the definitions used in DOJ's Uniform Crime Reporting program. Accordingly, Education defines a hate crime as a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. See 34 C.F.R. § 668.46(a) and Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting, 2016 Edition* (Washington, D.C.: June 2016). Similarly, the handbook defines religious bias as a preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being. This could include Catholics, Jews, Protestants, Muslims, or atheists, among other groups.

Colleges' Role in Addressing Hate Crimes and Bias Incidents

an incident can be classified as a hate crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. For example, if spray-painted swastikas are found on campus and an investigation cannot find conclusive evidence of bias motivation, the handbook states that colleges should not report the incident as a Clery Act hate crime. Colleges are required to include hate crime data in their annual security reports and to submit these data to Education for inclusion in the agency's online campus crimes statistics database. These data include the type of offense, the category of bias, and where the crime occurred.³¹

Colleges must comply with applicable federal, state, local, and tribal laws related to hate crimes, civil rights, and data collection requirements, and public colleges must also comply with applicable constitutional obligations, such as those related to free speech. Colleges also may choose to create policies and adopt practices to prevent and respond to hate crimes and bias incidents occurring on campus that involve students, employees, or members of the public. In developing and implementing these policies, public colleges are obligated to ensure they comply with

³¹Colleges are currently required to include in their Clery Act statistics the following criminal offenses that are determined to be hate crimes: murder and non-negligent manslaughter, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, arson, larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property. Colleges were required to include larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property after amendments made by the Higher Education Opportunity Act, Pub. L. No. 110-315, § 488(e), 122 Stat. 3078, 3297 (2008). Although the Clery Act requires colleges to report hate crimes by category of bias (e.g., race, gender, religion, national origin, etc.), colleges are not required to report the specific religion that was targeted for hate crimes motivated by religious bias.

the First Amendment;³² by contrast, purely private institutions, including private colleges, are not subject to the First Amendment.³³ College administrators also may hire campus security personnel to protect their campus community. Campus security personnel may be sworn officers—with arrest powers—or nonsworn security personnel. According to a 2011-12 DOJ survey of campus law enforcement, 68 percent of 4-year colleges with populations of 2,500 students or more used sworn police officers to provide law enforcement services on campus.³⁴

³²Whether particular speech is protected under the First Amendment—and the extent to which the government (including public colleges) can regulate protected speech—depends on the facts and circumstances of each case. Restrictions on speech that are “content-based” (i.e., that either explicitly or implicitly regulate speech on the basis of the substance of the message) are presumed to be unconstitutional and typically subject to heightened judicial scrutiny. By contrast, general regulations that are not intended to control the content of speech, but that may incidentally limit or otherwise affect speech, are typically subject to a lower standard of judicial scrutiny. For example, the government may generally regulate the time, place, or manner of protected speech as long as the regulation is content-neutral, is narrowly tailored to serve a significant government interest, and leaves open ample alternative channels of communication. In the case of a public college, the extent to which the college may regulate speech also depends on where the speech occurs – e.g., on a campus sidewalk or posting on a bulletin board. Speech that occurs in a “public forum”—places traditionally used for public assembly and debate, such as streets and parks—is more strongly protected than speech that does not occur in a public forum. In light of these complexities, we did not make any legal determinations about whether any particular incident described or depicted in this report constituted protected speech under the First Amendment.

³³However, the Administration recently issued Executive Order 13864, which requires certain federal agencies, including Education, to take appropriate steps to ensure that colleges receiving federal research or education grants “promote free inquiry.” See Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities, 84 Fed. Reg. 11,401 (Mar. 21, 2019).

³⁴Reaves, Brian A., Bureau of Justice Statistics, Office of Justice Programs, Department of Justice, *Campus Law Enforcement, 2011-12* (Washington, D.C.: January 2015).

Reports of Religious-based Hate Crimes on Campuses Have Increased

Federal Data Show Increasing Reports of Religious-based Hate Crimes on College Campuses

Both Education and DOJ data show increasing reports of religious-based hate crimes on college campuses from 2009 through 2017. While the total number fluctuated from year to year over that time period, the number of religious-based hate crimes reported to Education increased from 103 in 2009 to 189 in 2017 and crimes reported to DOJ increased from 24 to 59 (see fig. 1).³⁵

³⁵Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls. See Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting*. Additional campus hate crime data are presented in appendix III of this report.

Incident Reported to Education and DOJ as a Religious-based Hate Crime

In 2018, swastikas were found spray-painted on the office walls of a Jewish professor who is a Holocaust scholar, according to several news outlets. The incident was reported as a religious-based hate crime to the Department of Education (Education), according to a senior college official, and to the Department of Justice (DOJ), according to a local law enforcement agent.

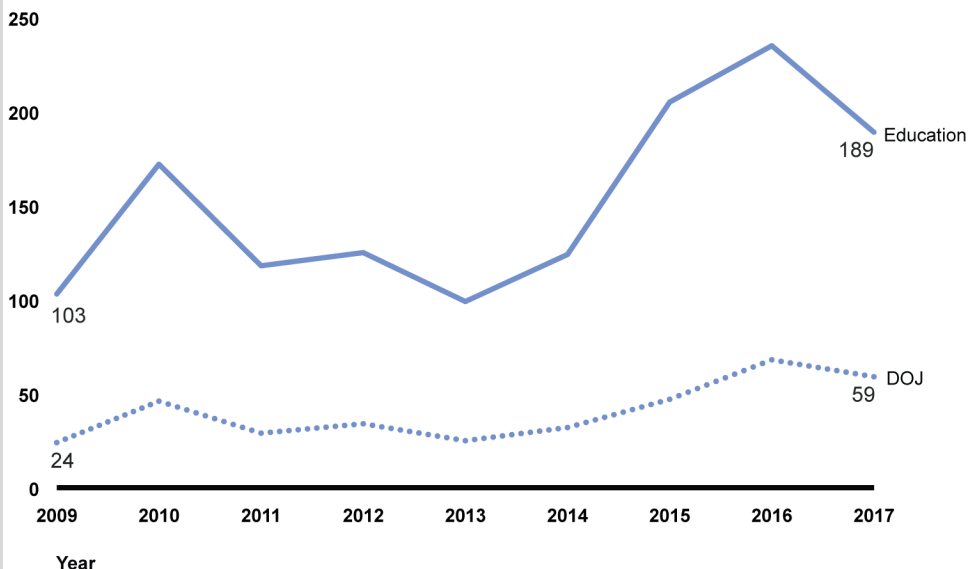


Note: Because this incident reportedly occurred in 2018, it would not be part of hate crime data reported to Education and DOJ for 2009 through 2017.

Photo credit: Rya Inman, Columbia Daily Spectator. | GAO-20-6

Figure 1: Total Religious-based Hate Crimes on College Campuses Reported to Education and DOJ, 2009-2017

Number of reported religious-based hate crimes



Source: GAO analysis of U.S. Department of Education (Education) and U.S. Department of Justice (DOJ) data. | GAO-20-6

Note: Education data show higher numbers of reported crimes due to differing reporting requirements for each agency. For example, colleges participating in federal student aid programs are required to submit hate crime data to Education, whereas non-federal law enforcement agencies, such as campus police departments, voluntarily submit hate crime data to DOJ. Both datasets show reported crimes that may not have resulted in an arrest, prosecution, or formal finding of guilt. Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.

Education data show consistently higher numbers of reported religious-based hate crimes compared to DOJ data due to differing reporting requirements for each agency. For example, colleges participating in federal student aid programs are required to submit hate crime data to Education. Campus law enforcement and other non-federal law enforcement agencies are not required to submit hate crime data to DOJ (see fig. 2).

Figure 2: Examples of Differences between DOJ and Education Hate Crime Datasets

	Education (Clery Act Campus Safety and Security Statistics)	DOJ (Uniform Crime Reporting Program)
Who reports to the federal agency?	Colleges must report to Education crimes that meet Clery Act criteria and that were reported to designated college officials (who may include non-security personnel, such as resident assistants). Colleges are also to make a good-faith effort to collect data from relevant law enforcement agencies.	Federal, state, local, and tribal law enforcement agencies.
Is reporting to the federal government required?	Yes All colleges participating in federal student aid programs must report to Education. ^a	No Reporting is voluntary, except for federal law enforcement agencies.
Who classifies the report as a hate crime?	College officials, using the Clery Act criteria. ^b	Law enforcement agents, using the Uniform Crime Reporting program criteria. ^c
What is the relevant geographic area for reporting campus crimes?	Colleges must report crimes that occur (1) on campus, (2) on public property within or immediately adjacent to the campus, and (3) in or on non-campus buildings or properties that the institution owns or controls (such as properties owned or controlled by recognized student organizations).	Law enforcement reports the location of a crime, including if it occurred at a college.

Source: GAO analysis of U.S. Departments of Education (Education) and Justice (DOJ) documents and interviews with officials. | GAO-20-6

^aColleges are also required to distribute campus crime statistics to current students and employees.

^bThe Clery Act requires that these crime statistics be compiled in accordance with the definitions used in DOJ's Uniform Crime Reporting program, in addition to other criteria.

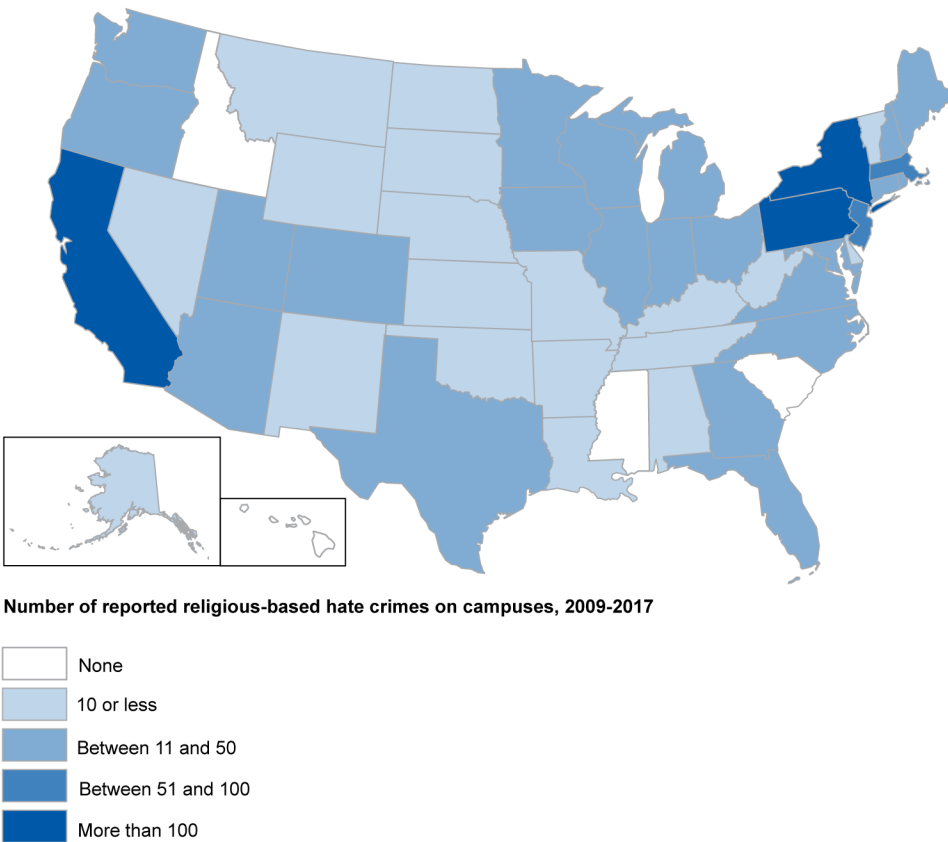
^cDOJ guidance recommends that law enforcement agencies use a two-tier decision-making process in which the responding officer first designates an incident as a suspected hate crime, and then forwards the case to a second-level officer or unit for a final determination based on the facts.

Religious-based hate crimes on college campuses are a nationwide problem. Colleges in 46 states and the District of Columbia reported to Education that at least one of these crimes had occurred on their campus during the reporting period (2009 through 2017) (see fig. 3).³⁶ Education

³⁶We did not analyze the causes of state-level variation in hate crime reporting.

data also show reports of these crimes at colleges occurred in every type of setting: cities, suburbs, towns, and rural areas.³⁷

Figure 3: Geographic Distribution of Religious-based Hate Crimes on College Campuses Reported to Education, 2009-2017



Sources: GAO analysis of U.S. Department of Education (Education) data; Map Resources (map). | GAO-20-6

Note: GAO did not analyze the causes of state-level variation in hate crime reporting. Colleges are to report to Education alleged crimes that have been reported to certain campus authorities or local law enforcement. Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.

³⁷From 2009 through 2017, Education received reports of 713 religious-based hate crimes at colleges in cities, 374 in suburbs, 122 in towns, and 65 in rural areas. The type of setting for 96 reported crimes could not be identified. See appendix III for a yearly breakdown of these data.

Incident Reported to Education as a Religious-based Hate Crime

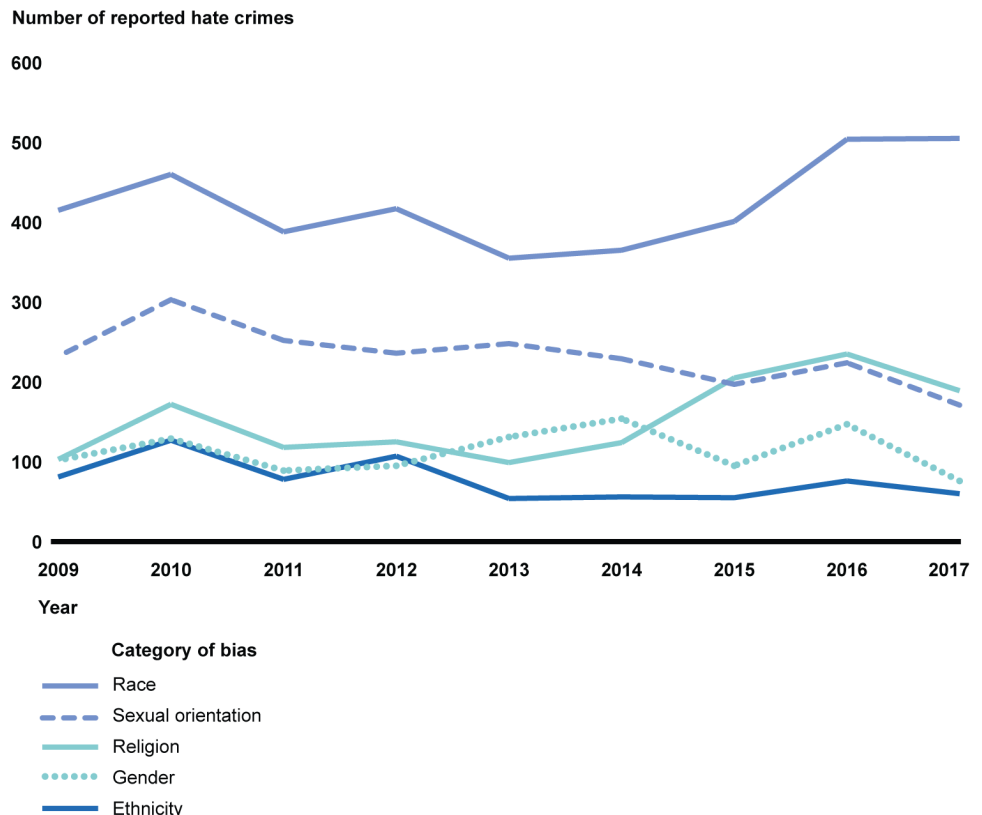
In 2015, a college student found the word "Jew" and a swastika taped next to an Israeli flag in his dorm room, according to one news outlet. According to a college official, the college reported the incident to the Department of Education (Education) as a religious-based hate crime. The official said law enforcement reported the incident to the Department of Justice (DOJ) as a hate crime motivated by bias against "other ethnicity / national origin."



Photo credit: Anonymous. | GAO-20-6

Religious-based hate crimes constituted 14 percent of total campus hate crimes reported to Education for 2009 through 2017, and 23 percent of campus hate crimes reported to DOJ. Religious-based hate crimes were the second largest type of bias reported to Education for 2015 through 2017, after racial bias (see fig. 4).

Figure 4: Hate Crimes on College Campuses Reported to Education, by Top Five Categories of Bias, 2009-2017

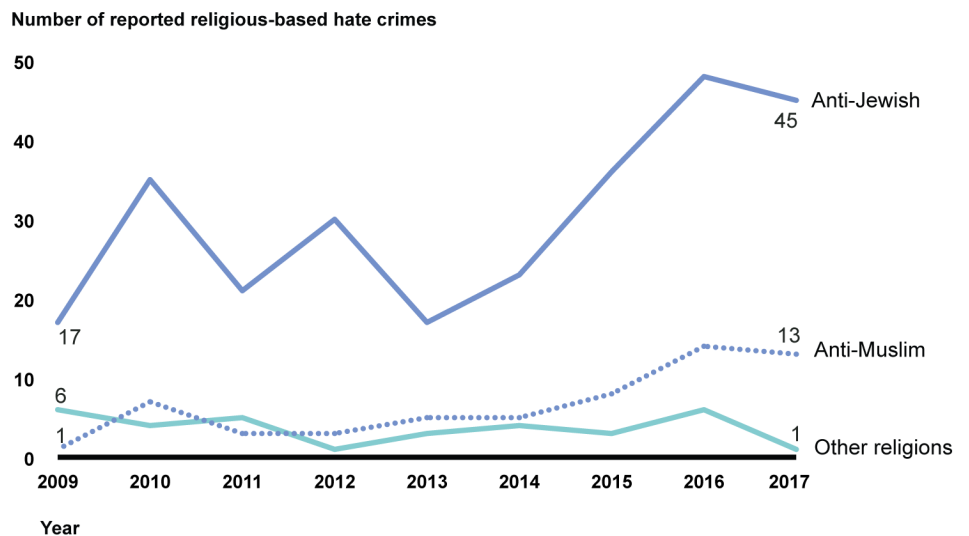


Source: GAO analysis of U.S. Department of Education (Education) data. | GAO-20-6

Note: Colleges are to report to Education alleged crimes that have been reported to certain campus authorities or local law enforcement. The other three categories of bias included in Education's hate crime data are disability, gender identity, and national origin. Education began collecting data on hate crimes based on gender identity and national origin for crimes occurring in 2013. The total numbers of hate crimes motivated by these other bias types reported to Education were 104 disability biased crimes (occurring in 2009 through 2017); 265 national origin biased crimes; and 211 gender identity biased crimes (occurring in 2013 through 2017). Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.

The increase in reported religious-based hate crimes was driven largely by increased reports of anti-Jewish and anti-Muslim crimes, according to DOJ data (see fig. 5).

Figure 5: Religious-based Hate Crimes on College Campuses Reported to DOJ, by Targeted Religion, 2009-2017



Source: GAO analysis of U.S. Department of Justice (DOJ) data. | GAO-20-6

Note: "Other Religions" may include religions such as Catholic, Protestant, and Baha'i. These data show crimes reported to DOJ by law enforcement agencies. Reporting is voluntary for non-federal agencies. Although DOJ guidance defines certain religions, such as "Jewish/Judaism," it does not define specific types of religious bias, such as "anti-Jewish" bias.

The type of religious-based hate crime most frequently reported to Education was vandalism (61 percent), followed by intimidation (28 percent), and simple assault (5 percent) (see fig. 6).³⁸ These were also the most frequent types of religious-based hate crimes on campuses reported to DOJ.

³⁸For purposes of this report, we use the term vandalism to refer to the destruction or damage of property.

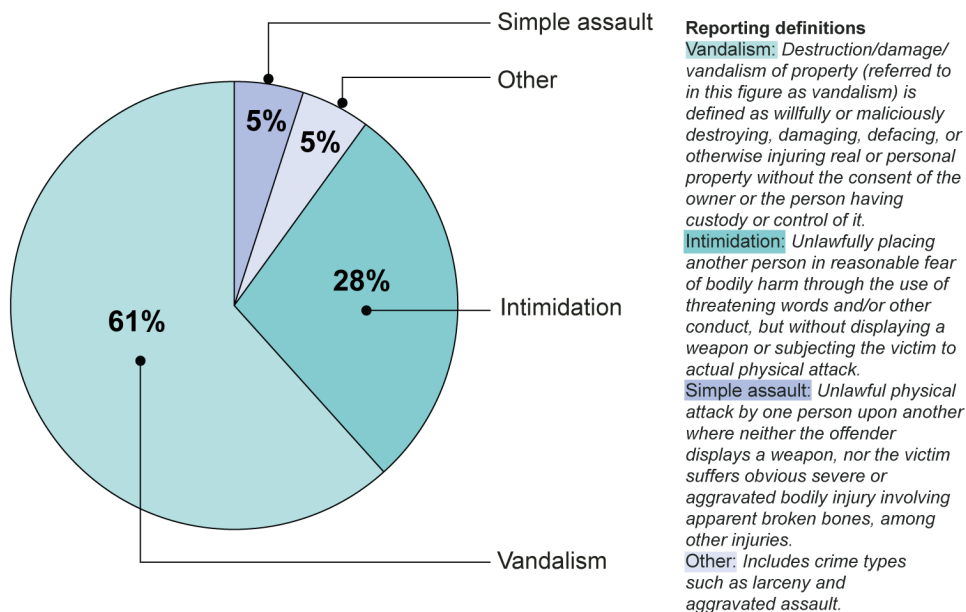
Incident Reported to Education and DOJ as a Religious-based Hate Crime

In 2016, the word "ISIS" was painted over the name of a Muslim college student organization on campus, according to one news outlet. A college official said the college reported the incident to the Departments of Education (Education) and Justice (DOJ) as a religious-based hate crime.



Photo credit: Council on American-Islamic Relations. | GAO-20-6

Figure 6: Religious-based Hate Crimes on College Campuses Reported to Education, by Type of Crime, 2009-2017



Source: GAO analysis of U.S. Department of Education (Education) data and documents. | GAO-20-6

Note: Percentages in this graphic do not total 100 due to rounding. Colleges are to report to Education alleged crimes that have been reported to certain campus authorities or local law enforcement. Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.

Almost 86 percent of religious-based hate crimes reported to Education occurred at colleges providing 4-year (or more) educational programs. Education officials said these crimes may be more frequently reported at these colleges because many of them have residential campuses, which provide increased opportunities for student interaction.³⁹

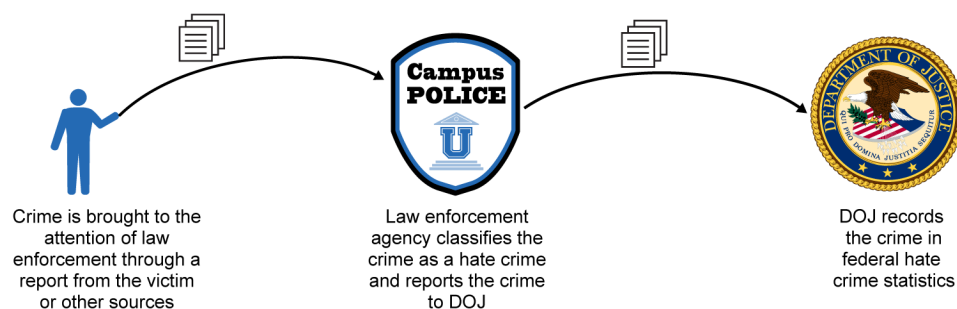
³⁹According to Education data, 79 percent of religious-based hate crimes reported for 2009 through 2017 occurred at colleges with residence halls on campus.

Hate Crimes Are Likely More Prevalent Than DOJ Data Indicate Due to Underreporting

DOJ officials and some stakeholders said that DOJ hate crime data likely undercount hate crimes due to underreporting by victims and law enforcement agencies, and DOJ and colleges are engaging in some efforts to improve hate crime reporting.⁴⁰ While one stakeholder said that reporting rates are increasing, others emphasized that underreporting remains a serious problem. In order for DOJ to record a hate crime in federal statistics under the Uniform Crime Reporting program, the crime must come to the attention of law enforcement, through a report from the victim or other sources. The law enforcement agency must then classify it as a hate crime, and the agency must report it to DOJ. Reporting to DOJ is mandatory for federal law enforcement agencies, but voluntary for state, campus, and other local law enforcement agencies. Therefore, the crime will be left out of DOJ hate crime statistics if it is not reported to law enforcement or if the law enforcement agency does not report it to DOJ (see fig. 7). Underreporting diminishes the ability of DOJ, researchers, and others to determine the true prevalence of hate crimes, identify trends, or make targeted policy changes to more effectively combat these crimes, according to some stakeholders. These stakeholders said that undercounting in hate crime data causes policymakers to underestimate the severity and urgency of the problem.

⁴⁰We discuss colleges' and DOJ's efforts to address victim and law enforcement underreporting later in this report. We did not assess colleges' hate crime reporting to Education due to an ongoing review by Education's Office of Inspector General on whether Education has adequate internal controls to provide reasonable assurance that colleges' reporting of campus crime statistics under the Clery Act is accurate and complete.

Figure 7: Process for Reporting Hate Crimes to DOJ under the Uniform Crime Reporting Program



Source: GAO analysis of information from U.S. Department of Justice (DOJ) documents and officials. | GAO-20-6

Note: Non-federal law enforcement agencies, including state, campus, and other local law enforcement, voluntarily report hate crimes to DOJ.

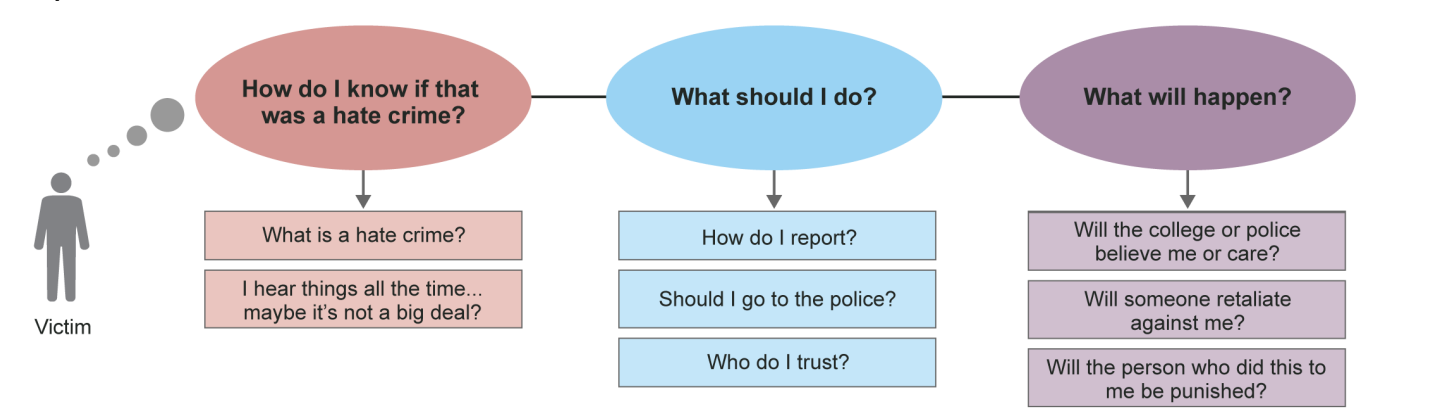
Underreporting by Victims

Although no federal data estimate how frequently victims fail to report religious-based hate crimes on campuses, DOJ officials said they estimated that about half of all hate crimes occurring nationwide from 2013 through 2017 were not reported to law enforcement.⁴¹ DOJ officials and stakeholders identified several reasons why a victim may not report a religious-based hate crime to college administrators or law enforcement, such as not understanding whether a hate crime has occurred or how to

⁴¹DOJ officials said they derived this estimate from victims' self-reporting on the National Crime Victimization Survey. For more information, see Bureau of Justice Statistics, DOJ, Hate Crime Statistics: Briefing prepared for the Virginia Advisory Committee, U.S. Commission on Civil Rights, *Panel 1: Hate Crime History in VA, Current Legal Framework, Enforcement and Data*.

report it, or not trusting that college administration or law enforcement would respond effectively (see fig. 8).⁴²

Figure 8: Examples of Uncertainties That May Lead Victims to Underreport Religious-based Hate Crimes on College Campuses



Source: GAO analysis of information from Department of Justice officials and documents and interviews with stakeholders. | GAO-20-6

Students belonging to religious minorities may have different concerns and report at different rates, according to some stakeholders. For example, one organization promoting interfaith cooperation said that due to strong and long-standing support from advocacy organizations, Jewish students may be more likely to understand the kinds of behavior that should be reported as possible hate crimes, and how to report them, than students belonging to some other religious minorities. On the other hand, some stakeholders said that Muslim students may be less likely to report

⁴²DOJ officials said that participants at a 2018 DOJ roundtable for law enforcement, called “Improving the Identification and Reporting of Hate Crimes,” identified some impediments to victim reporting, including the need to build communities’ trust in law enforcement. On October 16, 2019, Assistant Attorney General Eric Dreiband delivered public remarks noting that a forthcoming report would capture input from the roundtable. Additionally, DOJ has reported on a breakdown of trust between law enforcement and victims leading to underreporting of hate crimes. See Hunt, Ryan, Paul Di Lella, and Cassandra Belson. “A Bowling Green Legacy: A Guide for Law Enforcement and Communities,” Department of Justice Office of Community Oriented Policing Services (Washington, DC: 2015). In addition, the Illinois State Advisory Committee to the U.S. Commission on Civil Rights reported that some victims’ lack of understanding of the definition of a hate crime and skepticism or fear of law enforcement, among other factors, led to victim underreporting of hate crimes in Illinois. See *Hate Crime and Discrimination against Religious Institutions in Illinois: A Report of the Illinois State Advisory Committee to the U.S. Commission on Civil Rights*, May 2015. https://www.usccr.gov/pubs/docs/06-03-15_HateCrimesStateAdvisory.pdf.

hate crimes than other religious minorities, because they may be less likely to know what and how to report, less trusting of college or law enforcement authorities and processes, or desensitized by frequent victimization.

Law Enforcement Underreporting

Although the number of law enforcement agencies participating in DOJ's Uniform Crime Reporting program is increasing, the program is voluntary for state, campus, and other local law enforcement agencies, and DOJ officials and stakeholders said that law enforcement may underreport hate crimes due to several factors.⁴³ Officials said law enforcement may underreport because they may not be trained to properly identify, investigate, or report hate crimes. Investigating hate crimes requires expertise that some law enforcement agencies may not possess, according to DOJ officials. For example, they said some hate crimes may be overlooked because law enforcement lack specialized knowledge of hate crime symbols and do not recognize them. In addition, officials said that even in cases when the perpetrator has demonstrated bias, evidence needed to show the perpetrator's motivation may not be available. DOJ officials also said that participants in the 2018 DOJ roundtable for law enforcement on "Improving the Identification and Reporting of Hate Crimes" said law enforcement agencies with limited resources sometimes are not able to conduct the additional investigative work required to establish bias motivation. In particular, participants said that agencies with limited staff resources may investigate what happened, but not why, because investigating hate crimes is labor intensive. Participants identified additional reporting challenges, such as some agencies' lack of expertise in effective bias investigative techniques, according to DOJ officials.

Religious Bias Incidents Also Occur on Campuses

According to many stakeholders, the prevalence of religious-based bias incidents, which do not involve criminal conduct, such as distributing offensive messages on flyers, is also increasing. For example, the president of an association that represents 1,400 organizations, including colleges, said the association has seen a dramatic increase in reports of religious-based bias incidents in recent years. As previously noted, these

⁴³According to DOJ, the number of law enforcement agencies participating in the Uniform Crime Reporting program hate crime data collection increased from 14,417 in 2009 to 16,149 in 2017. Of these, the number of law enforcement agencies reporting that hate crimes occurred remained steady, with 2,042 agencies reporting hate crimes in 2009 and 2,040 agencies in 2017.

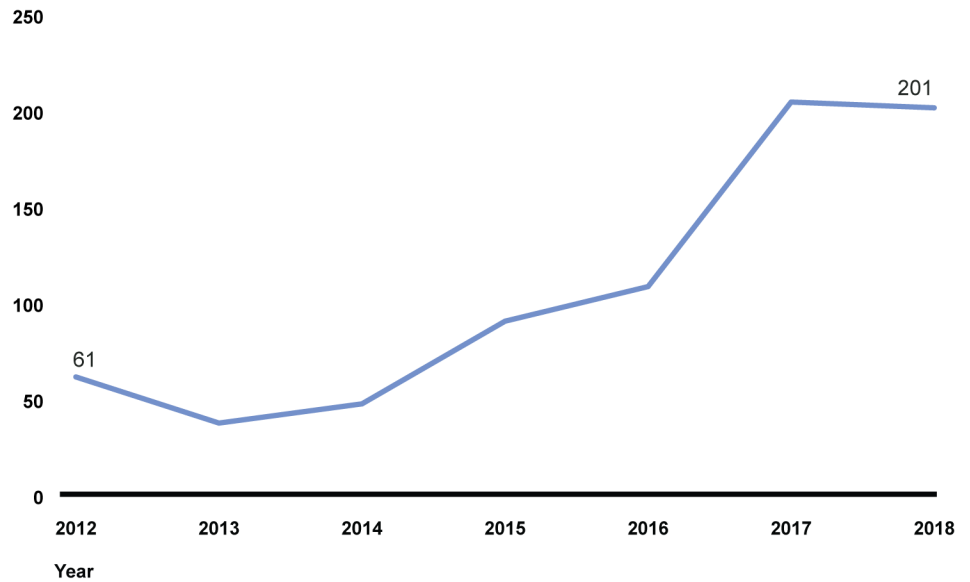
activities at public colleges may, depending on the circumstances, be protected speech under the First Amendment. No federal agencies collect data on the frequency of religious bias incidents on college campuses.⁴⁴ According to Anti-Defamation League data, which does not differentiate between hate crimes and non-criminal bias incidents, anti-Jewish hate crimes and bias incidents on college campuses more than tripled from 2012 through 2018 (see fig. 9).⁴⁵

⁴⁴Although DOJ does not collect data on the frequency of religious bias incidents on college campuses, in 2001 the agency reported on the “widespread use” of degrading language and slurs towards Jewish and other minority college students. Department of Justice, Bureau of Justice Assistance, *Hate Crimes on Campus: The Problem and Efforts to Confront It*, NCJ 187249 (Washington, D.C.: October 2001).

⁴⁵We were not able to identify data tracking the prevalence of non-criminal bias incidents on campuses motivated by bias against other types of religions. Some colleges may collect data on reports of religious-based bias incidents, but these data are not all publicly available.

Figure 9: Reported Anti-Jewish Hate Crimes and Bias Incidents on College Campuses, 2012- 2018

Number of reported anti-Jewish crimes and incidents



Source: GAO analysis of Anti-Defamation League data. | GAO-20-6

Note: The Anti-Defamation League (ADL) collects data on the number of criminal and non-criminal anti-Semitic acts of harassment, vandalism, and assault against individuals and groups that plausibly reflect anti-Jewish animus. These acts are reported to the ADL by victims, law enforcement, and the media, and ADL staff assess the credibility of all reports. The ADL data do not distinguish between crimes and non-criminal incidents. According to the ADL, it does not include anti-Israel acts in this data collection unless the act incorporates established anti-Jewish references, accusations, or conspiracy theories, or if Jewish religious or cultural institutions are targeted due to their purported support for Israel. GAO's report refers to anti-Semitic crimes and incidents as anti-Jewish to be consistent with terminology used in data collected by the Department of Justice.

Example of a Religious Bias Incident, as Classified by a College

In 2017, the words “Kill the Muslim” [sic] were written on a poster about campus security, according to one news outlet. A college official said the college classified this as a religious bias incident. The official explained they were unable to identify and interview a suspect, which they said would have helped them potentially establish motivation and classify the incident as a hate crime.



Photo credit: Anonymous. | GAO-20-6

According to a DOJ-funded report, bias incidents that do not constitute a crime may still be traumatic, cause fear and anger, and interfere with students' academic work.⁴⁶ In addition, these incidents may sometimes escalate into hate crimes.⁴⁷ Some stakeholders also said bias incidents may severely affect students' well-being. One survey at a large public college found that the more discrimination Muslim students felt, the more they reported anxiety and depression symptoms.⁴⁸ Also, a multi-college survey of first-year college students showed that respondents from certain minority religions—Muslims, Hindus, and Mormons—tended to feel less welcome on campus and perceive more divisiveness and insensitivity than their majority religion peers.⁴⁹

New Trends Are Emerging Involving Technological Changes, According to Stakeholders

Stakeholders described several changing trends in the nature of religious-based hate crimes and bias incidents on campuses, often associated with technological changes. For example, while some perpetrators belong to the campus community, off-campus perpetrators are increasingly coming to campuses and carrying out hate crimes or bias incidents, according to

⁴⁶Department of Justice, Bureau of Justice Assistance, *Hate Crimes on Campus: The Problem and Efforts to Confront It*, NCJ 187249 (Washington, D.C.: October 2001).

⁴⁷Ibid.

⁴⁸Lowe, Sarah R., Petty Tineo, Megan N. Young. "Perceived Discrimination and Major Depression and Generalized Anxiety Symptoms: In Muslim American College Students." *Journal of Religion and Health*, vol. 58, no 4 (2019) p 1136–1145.

⁴⁹Rockenbach, A. N., Mayhew, M. J., Correia-Harker, B. P., Dahl, L., Morin, S., & Associates. *Navigating Pluralism: How Students Approach Religious Difference and Interfaith Engagement in Their First Year of College*. Interfaith Youth Core (Chicago, IL: 2017). This was a non-generalizable survey of over 7,000 first-year students from 122 four-year institutions in the 2015-2016 school year.

some stakeholders. In some cases, online communications allow individuals or groups from around the country to quickly coordinate their actions. For example, according to a report requested by the Governor of Virginia, in 2017 white supremacists traveled from across the nation to march on UVA's campus and participate in the Unite the Right rally in downtown Charlottesville the following day (see text box).⁵⁰ According to the UVA police department and other university officials, the marchers used various online platforms to coordinate logistics for the march.

University of Virginia (UVA) and the Unite the Right Rally

On August 11, 2017, hundreds of white supremacists marched on UVA's campus, some carrying torches, while chanting "Jews will not replace us" in attempts to instill fear and provoke violence, according to the U.S. Attorney's Office for the Western District of Virginia and a university report. The violence resulted in at least one arrest and several injuries, according to an after-action report by the International Association of Chiefs of Police. One marcher pleaded guilty to charges of assault and battery, according to The New York Times.

The following day, on August 12th, hundreds of white supremacists from across the country held a rally in downtown Charlottesville, off the UVA grounds, to protest the removal of the Robert E. Lee monument in Emancipation Park, according to the Virginia Governor's task force commissioned after the event. The task force reported that violent conflicts erupted between the white supremacists and counterprotesters. According to the U.S. Attorney's Office for the Western District of Virginia, a white supremacist plowed a car into a group of counterprotesters, killing one and injuring about 30 others. The white supremacist driving the car pleaded guilty to multiple violations of the federal hate crimes statute and was sentenced to life in prison in 2019, and four additional white supremacists pleaded guilty to charges of conspiracy to riot, according to the U.S. Attorney's Office.

Source: UVA's Dean's Working Group, "The University's Response to August 11, 2017: Observations and Improvements" (Charlottesville, VA: September 11, 2017). International Association of Chiefs of Police, *Virginia's Response to the Unite the Right Rally: After-Action Review* (December 2017). Governor's Task Force on Public Safety Preparedness and Response to Civil Unrest, *Final Report and Recommendations* (December 1, 2017). Department of Justice, U.S. Attorney's Office, Western District of Virginia, "Ohio Man Sentenced to Life in Prison for Federal Hate Crimes Related to August 2017 Car Attack at Rally in Charlottesville, Virginia" (June 28, 2019). Department of Justice, U.S. Attorney's Office, Western District of Virginia, "Three Members of California-Based White Supremacist Group Sentenced on Riots Charges Related to August 2017 'Unite the Right' Rally in Charlottesville" (July 19, 2019). Zaveri, Mihir, The New York Times, "Christopher Cantwell, White Nationalist in Vice Video, Is Barred from Virginia" (July 21, 2018). | GAO-20-6

⁵⁰International Association of Chiefs of Police, *Virginia's Response to the Unite the Right Rally: After-Action Review* (December 2017).

Example of a Religious Bias Incident, as Classified by a College

In 2018, one college student allegedly tweeted support for shooting Jewish people the day after 11 people were killed at a Pittsburgh synagogue, according to one news outlet. According to a college official, the college categorized these statements as a bias incident.

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Furthermore, some stakeholders said the speed and accessibility of current online communications cause problems or tensions to escalate more quickly than in the past. For example, some stakeholders said online harassment targeting students for their religion is of increasing concern as students more frequently interact online, and that online harassment can quickly escalate, affecting many students.^{51,52} One organization promoting interfaith cooperation added that online harassment that does not rise to the level of a hate crime can still make students feel targeted, unaccepted, and sometimes unsafe.⁵³ Some stakeholders said the number of flyers with messages of religious bias has increased, with individuals sometimes coming from off-campus to distribute the flyers.^{54,55} According to the Anti-Defamation League, since 2016 white supremacist groups have increasingly distributed propaganda,

⁵¹However, the extent to which online harassment is increasing is unclear: one stakeholder said online harassment is decreasing because students currently tend to interact only with people they know online.

⁵²The extent to which the First Amendment's free speech protections apply to online harassment is a still-developing area of the law.

⁵³Harassment that targets the victim due to their religion may constitute a hate crime, depending on the circumstances. For example, if the harassment meets the definition of criminal intimidation and is shown to have been motivated by a bias against the victim's perceived religion, this harassment may be classified as a religious-based hate crime. For purposes of reporting to DOJ and Education, intimidation is defined as "to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack."

⁵⁴Depending on the circumstances, the distribution of flyers and similar materials at public colleges may constitute free speech protected by the First Amendment. We did not make any legal determinations about whether any particular incident described or depicted in this report constituted protected speech under the First Amendment.

⁵⁵The Anti-Defamation League reported 313 cases of white supremacist propaganda, including flyers, stickers, and posters, on campuses during the 2018-2019 school year – an increase of 7 percent over the previous school year. For example, the Anti-Defamation League cited one group that distributed fliers on three campuses that implied Jews control the media and that "all hate crimes are hoaxes." Anti-Defamation League, *White Supremacists Continue to Spread Hate on American Campuses* (June 27, 2019); accessed July 9, 2019.

<https://www.adl.org/blog/white-supremacists-continue-to-spread-hate-on-american-campus>ses. The Southern Poverty Law Center tracked 329 flyering incidents on college campuses between March 2016 and October 2017; these flyers were distributed by white nationalist groups or other groups expressing racial or religious bias. Southern Poverty Law Center, *White Nationalist Flyering on American College Campuses* (Last updated October 17, 2017); accessed April 1, 2019, <https://www.splcenter.org/hatewatch/2017/10/17/white-nationalist-flyering-american-college-campuses>.

including flyers, posters, and stickers, on campuses to recruit new members.⁵⁶ The Southern Poverty Law Center and the Anti-Defamation League also reported incidents where an off-campus individual hacked into college printers and printed hateful messages.⁵⁷ For example, the Southern Poverty Law Center reported that an individual hacked into college printers and printed flyers calling for the murder of black and Jewish children.⁵⁸

Some Colleges Have Taken Steps to Address Religious-based Hate Crimes and Bias Incidents on Campus

According to stakeholders we interviewed and literature we reviewed, some colleges have taken steps to prevent and respond to religious-based hate crimes and bias incidents on their campuses. These steps include 1) efforts to support and improve reporting; 2) creating policies and educating students and staff on hate crimes, bias incidents, and religious tolerance; 3) communicating publicly about hate crimes, bias incidents, and the college's resources for victims; and 4) building and maintaining relationships with religious groups.⁵⁹ Overall, there is some variation in the practices colleges choose to adopt and how they are implemented. For example, some colleges have online reporting systems, some interweave messages of religious tolerance into their coursework, and others have bias response teams to investigate incidents and provide support for victims.

⁵⁶Anti-Defamation League, *White Supremacists Continue to Spread Hate on American Campuses*. Similarly, the Southern Poverty Law Center reported that off-campus hate groups increasingly use flyers to attempt to recruit college students. Southern Poverty Law Center, *White Nationalist Flying on American College Campuses*.

⁵⁷Southern Poverty Law Center, *White Nationalist Flying on American College Campuses*. Anti-Defamation League, *ADL Audit: U.S. Anti-Semitic Incidents Surged in 2016-17* (New York, NY: ADL, 2017).

⁵⁸Southern Poverty Law Center, *White Nationalist Flying on American College Campuses*.

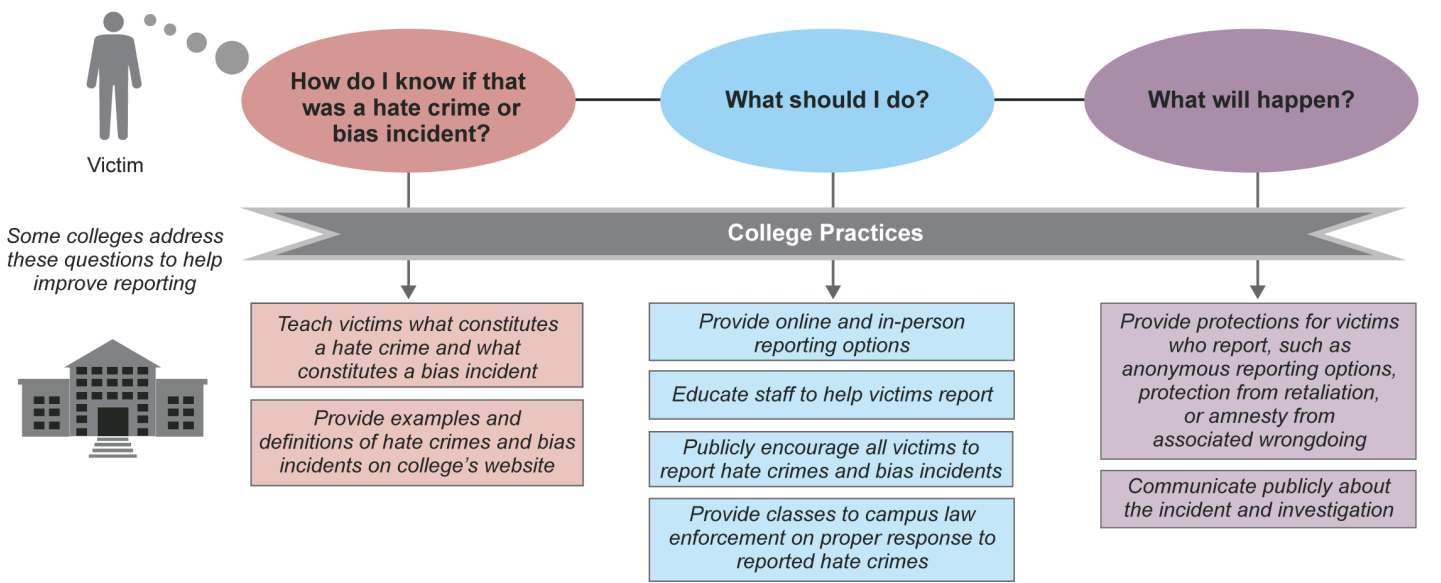
⁵⁹The practices and examples outlined in this section were identified by stakeholder groups we interviewed who represent colleges, religious groups, and campus safety personnel and law enforcement, as well as UVA officials. The examples are not generalizable to all colleges, but provide illustrative examples of how some colleges monitor and address religious-based hate crimes and bias incidents.

Improving Reporting By Victims and Campus Authorities

Improving Reporting by Victims of Hate Crimes and Bias Incidents

Some colleges are helping more victims report hate crimes and bias incidents by enhancing awareness of what and how to report, increasing availability of reporting mechanisms, and implementing protections for the person reporting, according to stakeholders we interviewed (see fig. 10). Some stakeholders said these approaches encourage people to report, help victims receive the immediate support they need, and help authorities understand the frequency and severity of hate crimes and bias incidents occurring on campus.⁶⁰

Figure 10: Examples of Practices Used by Some Colleges to Improve Reporting of Hate Crimes and Bias Incidents by Victims



Source: Stakeholder interviews and GAO review of select college websites and documents. | GAO-20-6

Some colleges have sought to improve reporting by teaching students and staff about what constitutes a hate crime or bias incident and how to report them. For example, some stakeholders said colleges are providing

⁶⁰“Authorities” in this section refers to college administrators and law enforcement officials.

this instruction during freshman orientation, at campus forums, or online. Some colleges are also providing more avenues for victims to report by offering phone hotlines, online reporting, or downloadable applications where students can report directly from their mobile phones. One college, for example, established an online reporting platform where students and staff can report various types of offenses, including religious-based hate crimes or bias incidents. After a report is submitted, college officials said they review it, determine the appropriate actions, and report any crimes to Education and DOJ, if they meet the requisite criteria. Another college's student affairs website provides clear avenues for reporting bias incidents, hazing, and other dangerous behavior that might affect the community. It also connects students with the college's victim support services.

To encourage reporting, some colleges provide protections to the person who reported the crime or bias incident by offering anonymous reporting or protection from retaliation, according to many college associations. For example, one large public college clearly displays on its crime reporting homepage that students may remain anonymous. One association representative noted that providing amnesty from any associated wrongdoing for the reporting student could also help with reporting. For example, one college eliminates disciplinary action if a student witnesses and reports a violent crime while drinking underage. Some stakeholders said that widely communicating these protections for those reporting a hate crime or bias incident can help encourage reporting.

Improving Reporting By Campus Authorities of Hate Crimes

According to some stakeholders, campus law enforcement agencies and campus administrators at some colleges have improved reporting of hate crimes by regularly communicating and coordinating with local law enforcement agencies with jurisdictions adjacent to campus. Officials said this communication can decrease reporting errors, help share information that could prevent hate crimes or bias incidents, and coordinate response efforts. For example, one college police department meets regularly with local city and county law enforcement agencies to share relevant information, discuss the jurisdiction of crimes, and reconcile crime reports to state and federal agencies. Officials we interviewed from some campus and public safety associations and religious organizations said educating campus administrators and law enforcement on recognizing hate crimes, how to support victims, and appropriate reporting procedures to Education and DOJ could also help improve reporting. Officials from one campus public safety association said this continuing education is especially important for campus law enforcement officers because their exposure to different types of crimes may be infrequent.

Creating Specific Policies and Instruction for Addressing Hate Crimes and Bias Incidents

Example of a Religious Bias Incident, as Classified by a College

In 2017, the phrase “Islam will destroy liberty” was written in chalk on a campus sidewalk near undergraduate housing at a public college, according to a college official. Because the college determined the message was protected speech under the First Amendment, it did not remove the message. An official said the college, following its protocol, classified this as a religious bias incident and responded by alerting resident advisors, university officials, and students from the Muslim Students Association.

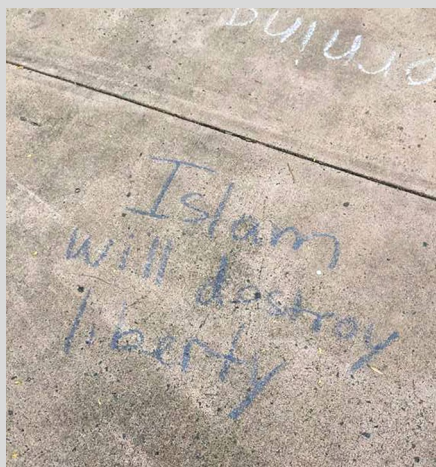


Photo credit: Erin Markle. | GAO-20-6

Some colleges have developed policies for addressing hate crimes and bias incidents on campus, according to some college association officials. According to one stakeholder, colleges that emphasize campus safety are recognizing that hate crimes—and religious-based hate crimes in particular—should be a high priority and are reviewing their procedures. For example, some colleges are modernizing their student code of conduct to address online harassment, including harassment motivated by bias, such as religious bias. Some stakeholders representing colleges and religious groups said it is beneficial for colleges to have clear, fair, and effective protocols in place should a hate crime or bias incident occur. Stakeholders explained these policies can explicitly state the college’s stance on hate crimes and bias incidents and its procedures for responding to them.

Some colleges are teaching students about tolerance and the impact of religious-based hate crimes and bias incidents or offering bias training campus-wide. This includes using classroom materials, forums, and college websites to teach students about religious-based hate crimes and bias incidents and their impact. For example, some colleges developed curricula that discuss the history of hate crimes in the United States. Another college identified by stakeholders requires all incoming undergraduate students to complete bias-related learning activities. According to two studies we reviewed, coursework and co-curricular activities that promote consciousness and compassion for all religious groups can improve students’ attitudes towards those groups.⁶¹ To increase this knowledge base and start conversations, some colleges offer courses in interfaith studies designed to explore how religious differences might guide students’ viewpoints. Learning about different religions may also help disprove harmful misconceptions and could reduce religious bias on campuses, many religious association representatives told us.

⁶¹Rockenbach, A. N., Mayhew, M. J., Correia-Harker, B. P., Morin, S., Dahl, L., & Associates. *Best Practices for Interfaith Learning and Development in the First Year of College* (Chicago, IL: 2018) Interfaith Youth Core. Stoltzfus, Michael J., and Reffel, James A. “Cultivating an Appreciation for Diverse Religious Worldviews Through Cooperative Learning in Undergraduate Classrooms,” *Religious Education* Vol. 104 No.5, October-December: 539-554.

Communicating and Using Bias Response Teams After a Hate Crime or Bias Incident

Many stakeholders said colleges are communicating in a public and timely way about occurrences of hate crimes or bias incidents on campus and some are creating bias response teams to connect victims or targets with resources.⁶² Stakeholders said statements condemning religious-based hate crimes or bias incidents can send a powerful message to the campus and the surrounding community about the college's values and stance on the issue. These can be more general statements or statements sent after a specific event. For example, at one college, the president emailed the entire campus community when anti-Muslim posters appeared in some residence halls. The email denounced the action and reiterated the campus' values of religious diversity and commitment to safety.

Public and Timely Communication

After an on-campus hate crime or bias incident occurs, some stakeholders said it is important for college leadership to notify the campus community. Some stakeholders said statements from some college presidents or other top officials have:

- provided a detailed description of the hate crime or bias incident and emphasized that the college views it as unacceptable;
- assured the campus and surrounding community that both hate crimes and bias incidents are taken seriously and appropriate investigations will take place; and
- reiterated the college's values regarding a positive environment for religious diversity, and reminded the campus community of support and resources available to victims or targets.

Colleges are also recognizing the importance of making timely statements to let students know that college officials are working to address the hate crime or bias incident, according to some stakeholders. One college identified by stakeholders, for example, uses a social media platform or email to make a brief announcement immediately after the initial incident, and then later releases a longer, more detailed statement about the incident, the college's stance, its plans to address the incident, and its support for those affected. According to the Anti-Defamation League, the

⁶²In efforts to increase transparency on the prevalence bias incidents, some colleges are starting to release data on the number of bias incidents on campus, including those motivated by religious bias. For example, one college began categorizing biases into specific races and religions in 2015 and distinguishes between bias incidents and hate crimes in their communications with the campus community.

first minutes and hours after an incident occurs are critical and the message to the campus community should be timely, direct, and comforting.⁶³

Bias Response Teams

Some stakeholders representing colleges said a growing number of colleges are establishing bias response teams that are responsible for connecting victims with support. Some colleges' bias response teams are made up of leaders from multiple groups, including student affairs, campus law enforcement, and counseling services. While the teams' roles and responsibilities can vary, stakeholders said they can create clear pathways to report a hate crime or bias incident, assist in coordinating the college's investigation of a hate crime or bias incident, or examine how college policies can better support affected students.⁶⁴

Building and Maintaining Relationships with Religious Groups

Example of a College-supported Gathering After a Religious-based Hate Crime

In March 2019, college students and staff at a U.S. college gathered on campus to mourn and heal after a mass shooting at two mosques in New Zealand. The event was organized by a Muslim student group on campus, supported by the dean of students, and secured by campus law enforcement.



Source: GAO staff. | GAO-20-6

Some colleges are forming relationships among college authorities and religious groups on campus to help create a safe and inclusive campus culture. Some college officials sponsor or attend events to help bring the campus community together in the aftermath of a religious-based hate crime or bias incident, even if it did not occur on campus. Stakeholders said these events give students opportunities to talk about the incident with the goal of building a more unified campus community.

Some colleges have also hosted interfaith dialogues through open forums and classroom discussions, and have supported events held by religious groups. One survey of college students found that interfaith opportunities and increased campus support for religious minorities were important for a positive campus climate.⁶⁵ Some colleges have created spaces designated for minority faith worship, such as prayer rooms for Muslim

⁶³Anti-Defamation League, *HATE/UNCYCLED: Understanding Bias and Hate on Campus, A resource for administrators and law enforcement teams* (New York, NY); accessed August 7, 2019. <https://www.adl.org/media/11138/download>.

⁶⁴Several First Amendment challenges to bias response teams at public colleges are currently pending in federal court. In September 2019, the U.S. Court of Appeals for the 6th Circuit held that a bias response team's ability to make referrals to law enforcement or the college's conflict resolution office "is a real consequence that objectively chills speech." The case has been remanded to the lower court for further proceedings. *Speech First v. Schlissel*, No. 18-1917, 2019 WL 4582834 (6th Cir. Sept. 23, 2019).

⁶⁵Rockenbach, A. N., Mayhew, M. J., Correia-Harker, B. P., Dahl, L., Morin, S., & Associates. *Navigating Pluralism: How Students Approach Religious Difference and Interfaith Engagement in Their First Year of College*.

students, or created multi-faith prayer spaces or events, according to some stakeholders. One stakeholder noted spaces like these could help build a welcoming environment for all religions on campus. Officials from one public safety organization we interviewed also said that some campus law enforcement agencies designate a liaison officer for student religious groups. The officer is responsible for creating rapport with the groups and serves as their point of contact for safety-related issues. Some stakeholders, however, also said it is beneficial to understand the reservations some religious groups may have about interacting with law enforcement.

Federal Assistance Is Available, But DOJ Does Not Update, Centralize, or Share Some Key Information

Although Education's role is more limited, both Education and DOJ provide information and other resources to help colleges, campus law enforcement, and other stakeholders monitor and address religious-based hate crimes and bias incidents. However, important DOJ information does not reflect changing trends, is difficult to find, and many stakeholders were unaware of DOJ resources.

According to Education officials, the agency's role in promoting campus security relates primarily to collecting campus crime statistics and enforcing federal requirements for colleges to report data and security policies. However, officials said they share information about available DOJ resources with colleges on a case-by-case basis, particularly when they attend conferences and provide colleges with technical assistance.⁶⁶ Additionally, Education officials said that in an effort to assist colleges to correctly classify hate crimes under the Clery Act, they are beginning to develop a webinar for colleges about hate crime classification, and they plan to make the first sessions available by the end of 2019.⁶⁷

DOJ is the primary agency responsible for monitoring and addressing federal hate crimes and offers resources to support colleges and campus

⁶⁶Additionally, Education's campus security website directs colleges to some DOJ offices that provide assistance related to hate crimes, such as the Community Oriented Policing Services.

⁶⁷Although Education officials said this webinar would initially target colleges that Education has identified as needing assistance to improve their hate crime classifications, all colleges will be allowed to enroll. Officials said they plan to publicize the webinar on their website and by informing college associations. Officials said they are also beginning work to update their central hate crime reporting guidance document to provide more detailed guidance on hate crime classification. See Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting*.

law enforcement in addressing hate crimes and bias incidents. These resources include providing educational activities and technical assistance, convening groups of federal and other stakeholders, facilitating mediation and dialogues, conducting research, and publishing reports and other information (see fig. 11).

Figure 11: Examples of DOJ Offices and Resources Available to Help Colleges and Campus Law Enforcement Address Religious-based Hate Crimes and Bias Incidents

 Education and technical assistance	 Convening groups and facilitating mediation and dialogues	 Research, reports, and other informational resources
<p>Community Relations Service Provides education on responding to hate crimes and bias incidents, such as cultural competency classes for campus law enforcement.</p> <p>Federal Bureau of Investigation Provides education for law enforcement on federal hate crime laws and reporting.</p> <p>Community Oriented Policing Services Provides technical assistance to campus law enforcement and others to improve hate crime identification, reporting, and investigations.</p>	<p>Policy and Strategy Section and Criminal Section (Civil Rights Division) Convened June 2017 Hate Crimes Summit to solicit input from advocacy groups to improve hate crime identification and reporting.</p> <p>Policy and Strategy Section and Criminal Section (Civil Rights Division) and Community Oriented Policing Services Convened October 2018 roundtable for law enforcement on improving hate crime identification and reporting.</p> <p>Community Relations Service Facilitates forums, mediation, and dialogues in which colleges, campus law enforcement, and others may participate. For example, DOJ facilitated dialogues in response to hate crimes and bias incidents against the Muslim, Arab, Sikh, South Asian, and Hindu communities.</p>	<p>Policy and Strategy Section and Criminal Section (Civil Rights Division) and Community Relations Service Manages DOJ's hate crimes website to provide agency-wide information and other resources.^a</p> <p>Community Oriented Policing Services Collaborated with Not in Our Town to produce a film discussing a college and community's response to bias incidents, which is available to colleges and others.^b</p> <p>Bureau of Justice Assistance (Office of Justice Programs) Published a 2001 report on campus hate crimes and practices to address them.^c Also works with the National Center for Campus Public Safety to provide information on campus safety, including hate crimes.^d</p> <p>National Institute of Justice (Office of Justice Programs) Conducts and funds research, including on hate crimes; e.g., how to measure hate crime prevalence and build offender profiles.</p> <p>Bureau of Justice Statistics (Office of Justice Programs) Conducted a 2011-2012 survey of campus law enforcement agencies, including whether agencies had designated hate crimes personnel.^e</p>

Source: GAO analysis of information from U.S. Department of Justice (DOJ) documents and officials. | GAO-20-6

Note: This table includes examples of DOJ resources available to colleges and campus law enforcement to help address religious-based hate crimes and bias incidents and is not comprehensive.

^a<https://www.justice.gov/hatecrimes>

^bThis film is called Not In Our Town: A Bowling Green Legacy. For more information, see <https://www.niot.org/cops/bowlinggreenlegacy>.

^cDepartment of Justice, Bureau of Justice Assistance, Hate Crimes on Campus: The Problem and Efforts to Confront It, NCJ 187249 (Washington, D.C.: October 2001).

^dThe National Center for Campus Public Safety was established in 2013 and funded through a cooperative agreement between the Bureau of Justice Assistance and Margolis Healy, a consulting firm.

^eSee Department of Justice, Bureau of Justice Statistics, Special Report: Campus Law Enforcement, 2011-2012, NCJ 248028 (January 2015); accessed July 22, 2019.
<https://www.bjs.gov/content/pub/pdf/cle1112.pdf>.

Although DOJ provides some informational resources on religious-based hate crimes and bias incidents on college campuses, the resources are outdated and do not provide current information about changing trends to colleges, campus law enforcement, or others who may need this information. For example, the DOJ publication most relevant to religious-based hate crimes and bias incidents on campuses and college practices to combat them was published in 2001.⁶⁸ DOJ officials said this report has not been updated or replaced because the information presented in the report remains relevant. However, the report does not reflect the recent trends that stakeholders identified related to hate crimes (e.g., the emergence of off-campus perpetrators and technological changes), or evolving college practices to address them (e.g., options for victims to report online). Also, DOJ's website lists a federal working group on campus safety that has not met for approximately 5 years.⁶⁹

While DOJ recently took steps to consolidate information and other resources for addressing hate crimes in general, its efforts relevant to colleges are scattered across at least five different offices and three sub-offices, so online information about these efforts is decentralized and not easily accessible to groups who may benefit from them. Specifically, to help consolidate information related to hate crimes, DOJ launched a new hate crimes website in 2018, which provides the first agency-wide portal for all information on hate crimes resources, according to officials. However, we found the website does not make information about all DOJ resources relevant to colleges or campus law enforcement easily accessible. Specifically, the website allows users to conduct filtered searches by audience type, but college administrators and campus law enforcement are not among the filter options. Keyword searches for terms

⁶⁸Department of Justice, Bureau of Justice Assistance, *Hate Crimes on Campus: The Problem and Efforts to Confront It*, NCJ 187249 (Washington, D.C.: October 2001).

⁶⁹According to DOJ officials, the Campus Public Safety Interagency Coordination Group last convened in 2014.

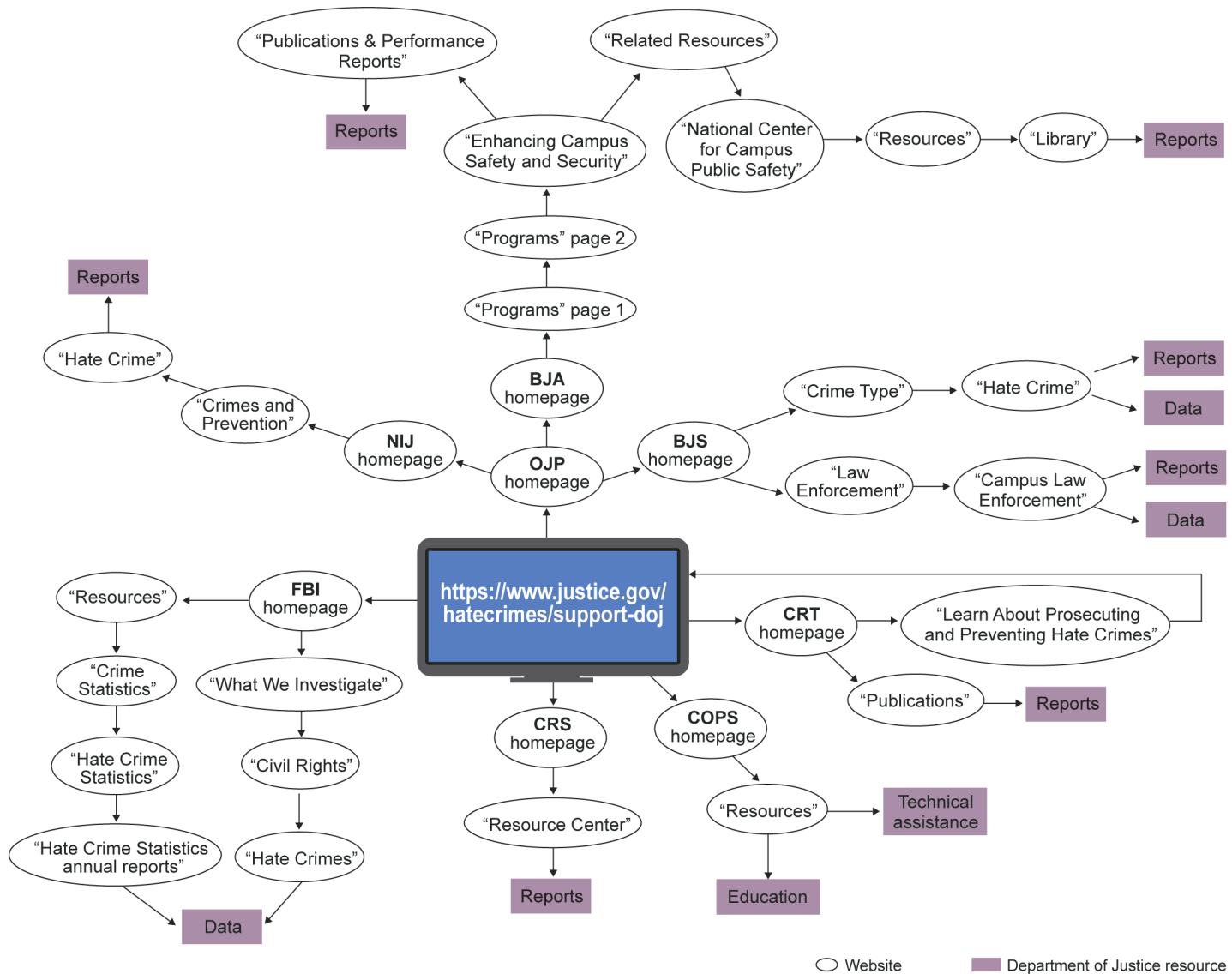
such as “college,” “university,” or “campus” provide very few results.⁷⁰ Therefore, users wishing to learn about available DOJ resources related to hate crimes on campuses must manually review almost 80 linked webpages or be routed to the homepages of five DOJ offices (see fig. 12).⁷¹ In addition, another website that DOJ officials described as a clearinghouse for campus safety information, including hate crimes—the website for the National Center for Campus Public Safety—links to only a few of these resources.⁷²

⁷⁰See <https://www.justice.gov/hatecrimes/resources>. DOJ officials said this website provides the most accessible information on resources relevant to hate crimes. However, users would need to input five keyword searches – which are not identified on the website – apply three filters specific to the relevant audience (e.g., “law enforcement”), and review all search results, among other steps, to locate these resources.

⁷¹Although DOJ officials said they convened several focus groups to solicit feedback on the hate crimes website, only one campus law enforcement agency and one association representing university women participated. In their comments on a draft of this report, DOJ officials said that other organizations attending the focus groups contained units devoted to outreach around these issues, but we were not able to verify this statement.

⁷²The National Center for Campus Public Safety was established in 2013 and funded through a cooperative agreement between the Bureau of Justice Assistance and Margolis Healy, a consulting firm. DOJ has not requested funding for the center for fiscal year 2020, due to competing priorities and expectations for the center to work toward sustaining itself by securing non-federal funds, according to DOJ officials.

Figure 12: Examples of Websites Users Must Navigate to Find DOJ Online Resources Related to Addressing Hate Crimes on College Campuses



Source: GAO analysis of U.S. Department of Justice (DOJ) websites. | GAO-20-6

Note: This graphic highlights examples of resources, such as reports and technical assistance, relevant to colleges and campus law enforcement accessible from DOJ's hate crimes website, and is not comprehensive. The DOJ office homepages depicted above have resources relevant to religious-based hate crimes on campus, according to agency officials. The homepages are for the Federal Bureau of Investigation (FBI), Community Relations Service (CRS), Community Oriented Policing Services (COPS), Civil Rights Division (CRT), Office of Justice Programs (OJP), and three sub-offices in OJP: the National Institute of Justice (NIJ), Bureau of Justice Assistance (BJA), and Bureau of Justice Statistics (BJS). The DOJ hate crimes website also links to homepages for the U.S. Attorney's Office and three other sub-offices within OJP (Office of Juvenile Justice and Delinquency

Prevention; Office for Victims of Crime; and Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking), which may have resources available for colleges and campus law enforcement.

DOJ officials said the agency shares information about available resources with colleges and campus law enforcement in a number of ways. For example, DOJ officials said the agency's hate crimes website helps increase the agency's communication to colleges. DOJ officials also described efforts to share information about agency resources via email listservs, newsletters, and presentations. However, many stakeholders we interviewed said they or their college members were not aware of the hate crimes website or other DOJ resources to help monitor and address hate crimes.⁷³ Specifically, 10 out of the 16 stakeholders we interviewed were unaware of DOJ's resources. Additionally, DOJ officials said that FBI Campus Liaison Agents act as a key contact for colleges to learn about FBI resources, including resources relevant to hate crimes, but many stakeholders we spoke with were not aware of these agents.

DOJ has also not shared information from recent hate crime initiatives that may be helpful to colleges and campus law enforcement. In June 2017, DOJ convened a Hate Crimes Summit with community groups and law enforcement agencies to gather feedback to improve efforts to identify, report, prosecute, and prevent hate crimes, and to identify actions DOJ can take to improve assistance to these groups. DOJ officials said the agency was striving to raise awareness of hate crimes and more widely share DOJ strategies for addressing them.⁷⁴ However, a senior DOJ official said the agency does not plan to share the strategies developed by a hate crimes subcommittee with law enforcement or the public. This includes strategies law enforcement and other stakeholders identified to more effectively address hate crimes and actions DOJ is taking in response to stakeholder input.

In addition, in October 2018 DOJ convened a roundtable on hate crime reporting that brought together experts and law enforcement, including some campus law enforcement. Although this roundtable focused on law enforcement, its findings—such as any findings related to encouraging

⁷³In addition, some stakeholders said they would like to learn more about the types of DOJ assistance and resources available related to campus hate crimes.

⁷⁴According to officials, DOJ cannot share certain types of information about hate crimes, such details about ongoing investigations or the names of individuals who have been investigated but not prosecuted.

victims to report hate crimes—may be relevant to other college officials in addition to campus law enforcement. We found that DOJ has not yet shared any findings with roundtable participants or the public.⁷⁵

Furthermore, many stakeholders we interviewed said they were unaware of DOJ resources—such as education, technical assistance, and reports—that may help campus law enforcement and colleges improve hate crime reporting and address underreporting—a challenge identified by DOJ officials and some stakeholders we interviewed. DOJ’s Community Relations Service has published a bulletin describing DOJ resources to build partnerships with the Muslim community. The Community Relations Service also facilitates dialogues in response to hate crimes and bias incidents, including those against Muslim, Arab, Sikh, South Asian, and Hindu communities.⁷⁶ These resources may improve reporting among Muslim students, who some stakeholders said are less likely than other groups to report hate crimes. Additionally, DOJ officials said that in October 2018 they made technical assistance available to colleges and campus law enforcement on topics such as hate crime investigations and reporting. Officials noted they had received some requests for technical assistance as of September 2019. However, many stakeholders we interviewed since October 2018 said they were unaware of DOJ’s educational resources.

DOJ stated that it prioritizes addressing hate crimes and working collaboratively with law enforcement partners. Specifically, DOJ created the Hate Crimes Enforcement and Prevention Initiative in 2018, and DOJ’s hate crimes website states that combatting hate crimes is one of DOJ’s highest priorities.⁷⁷ DOJ’s Strategic Plan for 2018-2022 also

⁷⁵On October 16, 2019, Assistant Attorney General Eric Dreiband delivered public remarks noting that a forthcoming report would capture input from the roundtable.

⁷⁶According to DOJ officials, DOJ conducts this work at the request of affected communities, including colleges and campus law enforcement agencies. DOJ may also reach out to a college and offer its services after becoming aware that an incident has occurred. DOJ officials stated they have also worked with Jewish campus communities regarding anti-Jewish incidents.

⁷⁷Also, the Deputy Attorney General remarked at DOJ’s October 2018 roundtable on hate crime reporting that “this roundtable unites two of the Department’s highest priorities: supporting our state and local law enforcement partners; and vigorously prosecuting bias-motivated crimes.” DOJ, *Deputy Attorney General Rod J. Rosenstein Delivers Remarks at a Law Enforcement Roundtable Regarding Improving Identification and Reporting of Hate Crimes* (Washington, D.C.: October 29, 2018).

emphasizes the importance of collaborative enforcement efforts.⁷⁸ Effective communication with external stakeholders that is current, complete, and timely can help federal agencies achieve their goals, according to federal internal control standards.⁷⁹ These standards also indicate the importance of identifying, analyzing, and responding to changing external conditions. For DOJ, such changes include recent trends in the nature and prevalence of religious-based hate crimes and bias incidents on campuses, as well as evolving college practices to address them. Until DOJ makes up-to-date information more easily accessible—for example, by linking webpages relevant to campus law enforcement or adding a “college” search term to its hate crime resource page—and shares this information with colleges, campus law enforcement, and other stakeholders, these groups may miss opportunities to leverage DOJ resources to address these hate crimes and bias incidents.

Conclusions

DOJ plays an important role in combatting religious-based hate crimes, including those occurring on college campuses. DOJ has several offices that have a role in monitoring and addressing federal hate crimes, many of which have resources available to support colleges, campus law enforcement, and other stakeholders in their efforts to monitor and address religious-based hate crimes. These resources include providing educational activities and technical assistance, convening groups of federal and other stakeholders, facilitating mediation and dialogues, conducting research, and providing information on the prevalence of hate crimes and practices to address them. However, the availability of these resources is not known to many organizations that play a role in responding to or addressing hate crimes on college campuses. Additionally, some of the online information, which is dispersed across multiple webpages, is difficult to find. Further, some information is out of date and does not reflect current trends, such as changes in technology that allow groups to coordinate their actions, or increases in off-campus perpetrators coming to campus to carry out hate crimes or bias incidents.

Given DOJ's law enforcement expertise, and its data and resources related to hate crimes, it is uniquely positioned to assist colleges and

⁷⁸DOJ, Department of Justice Strategic Plan for 2018 – 2022; accessed June 10, 2019, <https://www.justice.gov/jmd/page/file/1071066/download>.

⁷⁹GAO-14-704G.

campus law enforcement as they face an increasing number of religious-based hate crimes on campus. By updating, centralizing, and sharing more information about hate crimes at colleges and agency resources for addressing them, DOJ could help colleges address or respond when these events occur on campus.

Recommendations for Executive Action

We are making the following three recommendations to DOJ:

The Attorney General should ensure that relevant DOJ offices update information about religious-based hate crimes on college campuses, practices to address them, and available DOJ resources to help colleges, campus law enforcement, and other stakeholders monitor and address these crimes. (Recommendation 1)

The Attorney General should ensure that relevant DOJ offices centralize information on DOJ's website about available agency resources to help colleges, campus law enforcement, and other stakeholders monitor and address religious-based hate crimes on college campuses. (Recommendation 2)

The Attorney General should ensure that relevant DOJ offices share more information about available DOJ resources with colleges, campus law enforcement, and other stakeholders to help them monitor and address religious-based hate crimes on college campuses. (Recommendation 3)

Agency Comments

We provided a draft of this report to the Departments of Justice (DOJ) and Education (Education) for review and comment. On October 2, 2019 DOJ's Audit Liaison Group informed us via email that DOJ concurred with all three of our recommendations. Education provided written comments that are reproduced in appendix II. DOJ and Education also provided technical comments, which we incorporated as appropriate. We also met with Education officials to discuss their comments. Further, we provided relevant report sections to the Anti-Defamation League and UVA for technical comments. The Anti-Defamation League provided technical comments, which we incorporated as appropriate.

In its written comments, Education agreed that providing and sharing accurate information on religious-based hate crimes is critically important. However, Education also raised several questions and concerns about our draft report.

For example, Education raised questions about some of the report's statistical information. However, as discussed earlier in this report and in appendix I, in conducting our work we assessed the reliability of the data we used in accordance with our quality assurance framework. For example, we performed electronic testing of data, reviewed documentation describing data quality methods, and interviewed officials responsible for the data. We determined the data to be sufficiently reliable for our purposes.

Education also raised questions about certain of the report's sources. In developing our methodology, we again followed our quality assurance framework, and we developed criteria to select stakeholders that are knowledgeable, credible, and provide diverse views.

With respect to the scope of this report, Education's comments inaccurately characterize it as a "hate crimes report." As specified in the objectives of the report, our scope included both hate crimes and bias incidents. However, to avoid confusion, we have revised the objectives slightly and modified the Highlights page to further clarify that the scope of this report includes both religious-based hate crimes and bias incidents.

In addition, Education expressed its view that the report appeared to sometimes conflate First Amendment protected speech with criminal conduct under the rubric "bias incidents." We agree that bias incidents are not hate crimes, and the report distinguished between the two, specifically defining bias incidents as "acts motivated by bias that are not crimes." In addition, the report repeatedly states that bias incidents are not criminal acts, and also noted in several key places that bias incidents may, depending on the circumstances, constitute speech protected under the First Amendment. Education also suggested that the report include more analysis of the intersection between bias incidents, hate crimes, the First Amendment, and Executive Order 13864. We believe the report provides an appropriate level of detail about the First Amendment; it was not our purpose to provide a comprehensive discussion of First Amendment jurisprudence, but rather to provide necessary context for the report. Further, the type of analysis that Education describes would seem to require the application of law to specific facts and was outside the scope of this report. In response to Education's suggestion, we have added a description of Executive Order 13864.

Finally, in response to Education's suggestion that we revise the report's discussion of bias response teams to acknowledge recent adverse legal

authority, we have added a description of a recent U.S. Court of Appeals decision, which was issued after we sent the draft report to Education for comment.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Education, the Attorney General, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (617) 788-0534 or emreyarrasm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Melissa Emrey-Arras". The script is cursive and fluid.

Melissa Emrey-Arras, Director
Education, Workforce, and Income Security Issues

Appendix I: Objectives, Scope, and Methodology

Overview

This report examines (1) what is known about the prevalence of religious-based hate crimes and bias incidents on college campuses, including any changes in recent years, (2) steps colleges have taken to address religious-based hate crimes and bias incidents, and (3) the extent to which the Department of Education (Education) and the Department of Justice (DOJ) help colleges, campus law enforcement, and other stakeholders monitor and address religious-based hate crimes and bias incidents.

To examine the prevalence of religious-based hate crimes and bias incidents on college campuses, we analyzed data from three sources. This includes hate crimes reported to DOJ and Education from 2009, the first year for which all the relevant data are available, through 2017, the most recent data available.¹ As discussed further below, because these data sets collect information differently, they are not comparable.² We also examined a non-federal data source—the Anti-Defamation League’s annual Audit of Anti-Semitic Incidents—from 2012 through 2018. We examined this time period because prior to 2012, the data were managed by a different system, according to Anti-Defamation League staff. We conducted a literature review to identify studies and reports that examined religious-based hate crimes and bias incidents on college campuses, how the campus environment can support inclusiveness, and steps colleges have taken to address hate crimes and incidents.

To examine how DOJ and Education help colleges, campus law enforcement, and other stakeholders monitor and address these hate crimes and bias incidents, we reviewed agency policies, programs, and resources. This included reviewing DOJ and Education’s online resources and documents on campus safety, hate crimes, and religious-based hate crimes that could be used by colleges and other relevant stakeholders. Given DOJ’s key role in combatting hate crimes, we assessed the extent to which DOJ’s efforts help colleges and other stakeholders address and respond to hate crimes on campuses. This included assessing whether relevant documents and other information relevant to hate crimes and campus safety were readily accessible on DOJ’s website. We also interviewed officials from 16 associations representing colleges and

¹All data in this report are recorded by calendar years.

²For example, reporting to DOJ is voluntary for non-federal law enforcement agencies while reporting to Education is required for colleges receiving federal student aid.

religious groups, among others, to determine their members' knowledge about and use of DOJ resources. We assessed these resources, and DOJ's practices for sharing this information with relevant stakeholders, against federal internal control standards that state that (1) management should use quality information to achieve the entities' objectives; (2) quality information should be current, complete, accurate, and be provided on a timely basis; (3) management should externally communicate the necessary quality information to achieve the entities' objectives; and (4) management should identify, analyze, and respond to change.³ We also assessed DOJ's efforts against DOJ's Strategic Plan for 2018-2022, which makes reducing violent crime and promoting public safety a strategic goal and emphasizes the importance of collaborative and targeted enforcement efforts.

We interviewed DOJ and Education officials and other stakeholders to inform all three objectives. The stakeholders represented colleges, campus and public safety associations, and religious groups, among others. We visited the University of Virginia (UVA) where we interviewed officials from the university and the city of Charlottesville. We also reviewed documentation on hate crimes and bias incidents that occurred on or near UVA's campus and practices it has used to address these and other religious-based hate crimes and bias incidents. We selected UVA because the university and the city of Charlottesville, where it is located, experienced high-profile incidents on August 11-12, 2017, some of which were motivated by religious bias. Our interviews with UVA officials also provided examples of steps colleges may take to prevent and respond to religious-based hate crimes and bias incidents.

³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

Data Analysis

DOJ's Uniform Crime Reporting Program

DOJ's Uniform Crime Reporting program collects crime data annually from participating law enforcement agencies, including data on hate crimes.⁴ Participation is mandatory for federal law enforcement agencies and voluntary for state, local, and campus law enforcement agencies. For purposes of the Uniform Crime Reporting program, a hate crime is defined as a committed criminal offense which is motivated, in whole or in part, by the offender's bias(es) against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. According to DOJ's *Hate Crime Data Collection Guidelines and Training Manual*, the mere fact that the offender is biased against the victim's actual or perceived race, religion, disability, sexual orientation, ethnicity, gender, and/or gender identity does not mean that a hate crime was involved.⁵ Rather, the offender's criminal act must have been motivated, in whole or in part, by bias. Due to the difficulty of ascertaining the offender's subjective motivation, the manual states that a hate crime is to be reported only if investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. Even if the offender was mistaken in his or her perception that the victim was a member of the group he or she was acting against, the offense is still a hate crime as long as the offender was motivated by bias against the group. According to DOJ, most law enforcement agencies use a two-tier decision-making process in which the responding police officer first designates the incident as a suspected hate crime, and then forwards the case to a second-level officer or unit for a final determination based on the facts.

We analyzed data from 2009, the first year for which all the relevant data are available, through 2017, the most recent data available at the time of

⁴The Hate Crimes Statistics Act, as amended, requires DOJ to collect data about crimes that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property. See 34 U.S.C. § 41305, 28 U.S.C. § 534. DOJ guidance instructs participating law enforcement agencies to report offenses from their records of calls for service, complaints and/or investigations, and not the findings of a court, coroner, or jury, or the decisions of prosecutor.

⁵See Criminal Justice Information Services Division, Uniform Crime Reporting Program, *Hate Crime Data Collection Guidelines and Training Manual*, February 27, 2015 (Clarksburg, WV).

our study. We primarily analyzed data on religious bias, defined for purposes of the Uniform Crime Reporting program as a preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being. We also analyzed crimes that were motivated by other biases to report on the proportion of religious-based hate crimes that occurred on campus relative to other types of hate crimes. Law enforcement agencies can report up to five bias motivations per offense type. In this report, we use the term “crime” to refer to “offenses,” the term used in the DOJ data. For example, a single crime of assault could be committed based on the offender’s bias against both the victim’s race and religion. The majority of religious-based hate crimes on college campuses reported in this data were single-bias. For those that were motivated by multiple-biases, we counted the crime as motivated by religious bias if religion was listed for any of the bias types. Furthermore, individual incidents could include multiple crimes and we counted and reported on each of these crimes separately.

The Uniform Crime Reporting program accepts crime data from participating law enforcement agencies through the Summary Reporting System or through the National Incident-Based Reporting System.⁶ Regardless of reporting method, these same hate crime data are captured: the crime type and its respective bias motivation, the location of the incident, the number and type of victims, the number of known offenders, the offender’s race and ethnicity, if known, and whether or not the victim and/or offender were juveniles. We used the *Hate Crimes Data Collection Guidelines and Training Manual* to identify relevant terminology in our data analysis and report.⁷

In 2010, the Uniform Crime Reporting program added a location code specific to colleges and universities, creating two separate location code options: “school—college/university” and “school—elementary/secondary,” which allow for more specificity in reporting. The previous location code (“school/college”), which grouped together colleges with elementary and secondary schools, was retained for agencies that did not update their records management systems to

⁶The National Incident-Based Reporting System was implemented in the late 1980s to replace the traditional Summary Reporting System in reporting Uniform Crime Reporting program data, but law enforcement agencies may report using either system.

⁷Criminal Justice Information Services Division, Uniform Crime Reporting Program, *Hate Crime Data Collection Guidelines and Training Manual*.

include the new separate location codes. As a result, some campus law enforcement agencies continue to report crimes that occurred on college campuses using the broader legacy “school/college” location variable. To ensure we had a more complete count of hate crimes that occurred on college campuses, we used both location codes. But, for those crimes whose location was reported using the broader “school/college” code, we only included crimes that were reported by a campus law enforcement agency to ensure we did not capture crimes at elementary and secondary schools. This approach may undercount the number of hate crimes occurring at colleges in instances where the hate crime was reported by a non-campus law enforcement agency that used the legacy “school/college” variable.

Using these location variables, for each year we calculated the number of hate crimes reported as occurring on a college campus in total and for each bias category (disability, gender, gender identity, race, ethnicity, religion, and sexual orientation), and changes over time. We combined the categories of race and ethnicity when analyzing this dataset. For each year, we also calculated religious-biased hate crimes as a percentage of total hate crimes on campus. We also calculated the number of victims each year and in total. Within the category of religious-based hate crimes, we further disaggregated the data by the specific bias motivation as reported by the law enforcement agency: Anti-Jewish, Anti-Muslim, and Other. The “Other” category includes the following options for law enforcement agencies: Anti-Atheism/Agnosticism, Anti-Buddhist, Anti-Catholic, Anti-Eastern Orthodox, Anti-Hindu, Anti-Jehovah’s Witness, Anti-Multi-Religious Group, Anti-Mormon, Anti-Protestant, Anti-Other Christian, Anti-Other Religion, and Anti-Sikh.⁸ Prior to 2015, the Uniform Crime Reporting program had fewer religious bias categories. Anti-Buddhist, Anti-Eastern Orthodox, Anti-Hindu, Anti-Jehovah’s Witness, Anti-Mormon, Anti-Other Christian, and Anti-Sikh, would have been categorized as “other” prior to 2015. Because the vast majority of crimes were Anti-Jewish and Anti-Muslim over the reporting period, for ease of reporting, we grouped all crimes that were not reported as Anti-Jewish or Anti-Muslim in the “Other” category.

⁸Although DOJ guidance defines certain religions, such as “Jewish/Judaism,” it does not define specific types of religious bias, such as “anti-Jewish” bias. See Criminal Justice Information Services Division, Uniform Crime Reporting Program, *Hate Crime Data Collection Guidelines and Training Manual*.

We further disaggregated the crimes by crime type, such as vandalism, assault, and intimidation. According to the Hate Crime Data Collection Guidelines and Training Manual, law enforcement agencies submitting crime data via the National Incident-Based Reporting System and the Summary Reporting System use a different set of crime codes. Because law enforcement agencies can use either reporting method, our analysis captured both groups of crime codes.

We assessed the reliability of these data by (1) performing electronic testing, such as examining the data files for missing or out of range values and ensuring that there were no duplicate entries, (2) reviewing documentation about the data and the system that produced them, and (3) interviewing DOJ officials when additional information was needed. We determined that the data were sufficiently reliable for the purposes of this report.

Education's Clery Act Data

The Clery Act requires all eligible colleges participating in federal student aid programs under Title IV of the Higher Education Act to collect and annually publish campus crime statistics and security information, and to submit these statistics to Education.⁹ Specifically, colleges are required to include data on specified crimes that are reported to campus security authorities or local law enforcement and that occurred (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.¹⁰ These data do not include crimes reported as occurring outside of these areas (such as an off-campus party at a location not owned or controlled by the college or recognized student

⁹20 U.S.C. § 1092(f); 34 C.F.R. § 668.46.

¹⁰According to Education's *Handbook for Campus Safety and Security Reporting*, Clery Act statistics are based on reports of alleged criminal incidents; it is not necessary for the crime to have been investigated by the police or a campus security authority, nor must a finding of guilt or responsibility be made to include a reported crime in the college's crime statistics. The handbook directs colleges to include in their crime statistics the number of all reported offenses, without regard to the findings of a court, coroner or jury, or the decision of a prosecutor. Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting, 2016 Edition* (Washington, D.C.: June 2016).

organizations), even when the alleged victims or perpetrators were members of the campus community.¹¹

In the Clery Act data, hate crimes, which Education defines as criminal offenses that manifest evidence that the victim was intentionally selected because of the perpetrator's bias against the victim, are categorized by race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, and disability.¹² Education began collecting data on hate crimes motivated by bias against the victim's perceived gender identity or national origin for crimes occurring in 2013.¹³ According to Education's *Handbook for Campus Safety and Security Reporting*, before an incident can be classified as a hate crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. For example, if spray-painted swastikas are found on campus and an investigation cannot find conclusive evidence of bias motivation, the handbook states that colleges should not report the incident as a Clery Act hate crime. Colleges report to Education the following crimes if they meet the definition of a hate crime: murder and non-negligent manslaughter, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, arson, larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property.¹⁴

For each Clery Act data collection to Education, colleges report data for the previous three years. Therefore, each year of data is reported three times (i.e., 2014 data were reported to Education in the 2015, 2016, and 2017 surveys.) Colleges are able to adjust data in the second—but not the third—year of reporting. In the third year, colleges can leave comments but not change the data. At the recommendation of Education

¹¹For Education's regulations defining "campus security authority," see 34 C.F.R. § 668.46(a).

¹²The Clery Act requires that campus crime statistics be compiled in accordance with the definitions used in DOJ's Uniform Crime Reporting program.

¹³These categories were added by the Violence Against Women Reauthorization Act of 2013, § 304(a), Pub. L. No. 113-4, 127 Stat. 54, 89 (2013). According to Education officials, it is possible that some crimes motivated by these additional types of bias were improperly reported as other types of bias in prior years.

¹⁴Colleges were required to include larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property after amendments made by the Higher Education Opportunity Act, Pub. L. No. 110-315, § 488(e), 122 Stat. 3078, 3297 (2008).

officials, we used data from the second reporting year when available, as this would reflect any adjustments made by the college.

For crimes reportedly occurring in 2009 through 2017, which colleges reported to Education in 2010 through 2018, we analyzed the number of religious-based hate crimes each year and the total number of hate crimes motivated by religious bias and the total motivated by other biases over that time period. We also analyzed religious-based hate crimes as a percentage of total hate crimes, and the number of religious-based hate crimes, and total hate crimes, categorized by each type of criminal offense. We also examined the number of religious-based hate crimes on campuses with on-campus student housing facilities and on campuses without these housing facilities. Using the Clery Act geographic areas, we also analyzed the number of crimes at the following locations: on-campus; on-campus student housing facilities, which is a subset of “on-campus;” on public property within or immediately adjacent to the campus; and in or on non-campus buildings or property that the college owns or controls. We included all Clery geographies in our analyses of Clery Act data.

We merged the Clery Act data with data from Education’s Integrated Postsecondary Education Data System, which collects institution-level data annually from colleges in the United States. Specifically, we merged Clery Act data with the following variables from the Integrated Postsecondary Education Data System: whether the college was located in a city, suburb, town, or in a rural area; the college’s sector (public, private non-profit, and private for-profit); highest degree offered; and the college’s size. Since the unique ID field in the Clery Act data (UNITID_P) is a campus-level indicator within a college, and the unique ID field in the Integrated Postsecondary Education Data System (UNITID) is a college-level indicator, the data was merged using a truncated ID from the Clery Act data and the college’s city, which exists on both files. Fewer than 8 percent of the religiously motivated hate crimes in the Clery Act data were on campuses that could not be matched with the Integrated Postsecondary Education Data System data.

We assessed the reliability of these data by (1) performing electronic testing, such as examining the data files for missing or out of range values and ensuring that there are no duplicate entries, (2) reviewing documentation about the data and the system that produced them, and (3) interviewing Education officials when additional information was needed. We determined that the data were sufficiently reliable for the purposes of this report.

Anti-Defamation League Data

We analyzed data from the Anti-Defamation League on criminal and non-criminal acts of anti-Semitic harassment, vandalism, and assault against individuals and groups that occurred at colleges as reported by victims, law enforcement, and the media from 2012 through 2018.¹⁵ We chose this time period because prior to 2012, data were managed using a different system, according to Anti-Defamation League staff. The Anti-Defamation League defines colleges as any post-high school education environment, including 2-year and 4-year schools, and undergraduate and graduate schools.

The Anti-Defamation League gathers incidents through its 25 regional offices that cover the entire country. Individuals, students, faculty, and administrators can call a regional office and file an incident report or report an incident online. After a report is provided, regional staff will request basic information on the incident via phone or an email exchange and solicit any corroborating evidence that the individual might offer. Staff also conduct media searches online for incidents. Staff submit the information to a centralized database and review reports for duplicates. However, the Anti-Defamation League data do not distinguish between crimes and non-criminal incidents. We assessed the reliability of the data by reviewing documentation which described key definitions and the Anti-Defamation League's methodology for collecting and verifying the data. We also conducted two interviews with the Anti-Defamation League staff responsible for the data to obtain more detailed information about their methodology. We determined the data were reliable to present information on anti-Jewish hate crimes and incidents.¹⁶

Literature Review and News Searches

We conducted a literature review to identify studies and reports published from 2014 through 2018 that examined religious-based hate crimes and bias incidents on college campuses and steps some colleges have taken to address hate crimes and bias incidents. To identify studies from peer-reviewed journals, government documents, and other publications, we conducted searches of various databases, such as ProQuest, Scopus,

¹⁵For the purposes of this report, we refer to anti-Semitic acts as anti-Jewish to be consistent with how hate crimes are categorized in DOJ's Uniform Crime Reporting program data.

¹⁶We did not identify any available data tracking the prevalence of hate incidents on campuses motivated by other types of religious bias, such as anti-Muslim or anti-Christian bias.

DIALOG, Lexis Legal Journals, and the Harvard Kennedy Think Tank Search. For studies cited in the report, we reviewed each study's findings and methods.

We also conducted weekly news searches through ProQuest and internet searches to identify examples of publicly reported religious based hate crimes and bias incidents that occurred on college campuses since 2015. These are used as illustrative examples of reported hate crimes (where we could confirm that the incident was reported to Education or DOJ as a hate crime) and bias incidents (when classified as such by the college), and they are not representative or generalizable. Similarly, to identify photographs of some of the hate crimes and bias incidents presented in the report, we conducted news media and internet searches. The information and photographs included in this report on such hate crimes and bias incidents were publicly reported by other entities prior to their inclusion in this report, or provided to us directly by the college. We did not conduct an independent investigation of the source of the photographs or descriptions of the incidents portrayed in the news reports, and therefore did not make any independent legal determinations about whether these events constituted hate crimes or bias incidents. Rather, we reached out to appropriate college and law enforcement officials to determine whether the incidents described or depicted in photographs had been reported by them as hate crimes to either the Department of Education or the Department of Justice, or alternatively, whether the incident had been determined by the college to be a bias incident under applicable campus policies. In addition, we did not make any legal determinations about whether any particular incident described or depicted in this report constituted protected speech under the First Amendment.

Interviews with Associations and Other Stakeholders

In total, we interviewed representatives of 16 groups representing colleges, campus and public safety associations, and religious groups and we refer to them as "stakeholders" in our report. Our interviews gathered information on hate crime data collection; the prevalence of religiously-motivated bias incidents; practices some colleges have used to prevent and respond to hate crimes and bias incidents; colleges' interaction with DOJ and Education regarding these issues; and the use of federal resources to address them. When discussing stakeholders' views, we grouped them into the following categories: "one," "some" (more than one and less than half), and "many" (half or more).

When selecting college associations and campus and public safety associations, we selected groups based on their ability to provide relevant data or research and to describe college practices. Regarding religious groups, we interviewed leadership from six associations representing Jewish, Muslim, and Christian groups because those religions have experienced the highest reported rates of hate crimes regardless of location (either on a college campus or elsewhere), according to DOJ data. These groups accounted for the vast majority (at least 93 percent) of reported religious-based hate crimes on college campuses from 2009 through 2017, according to DOJ data. In addition to these characteristics, we selected religious groups that work directly with colleges or college students. We also interviewed groups working to promote interfaith cooperation at colleges using the same criteria. Specifically, we interviewed representatives from:

- **College Associations:** Association of American Colleges and Universities (representing 1,400 public and private colleges), Association of Public and Land-Grant Universities (representing 239 public research universities, land-grant institutions, and state university systems, among others), Council for Christian Colleges and Universities (representing more than 180 colleges), NASPA: Student Affairs Administrators in Higher Education (representing more than 15,000 student affairs professionals), and the National Association of Independent Colleges and Universities (representing nearly 1,000 private non-profit colleges).
- **Campus and Public Safety Associations:** International Association of Campus Law Enforcement Administrators, National Association of Clery Compliance Officers and Professionals, National Center for Campus Public Safety, and the Southern Poverty Law Center.
- **Religious Associations:** Anti-Defamation League, United States Conference of Catholic Bishops, The Muslim Student Association – National and West, Interfaith Youth Core, Hillel International, Muslim Public Affairs Council, and researchers responsible for the Interfaith Diversity Experiences and Attitudes Longitudinal Survey.

These groups have broad representation across college administrators, public safety personnel, and religious groups. The interviews provide important insight into these groups' experiences and views on approaches to combat religious-based hate crimes on college campuses.

We conducted this performance audit from August 2018 to October 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain

sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

THE GENERAL COUNSEL

October 4, 2019

Ms. Melissa Emrey-Arras, Director
Education, Workforce,
and Income Security Issues
Government Accountability Office
Washington, D.C. 20548

Dear Ms. Emrey-Arras:

On behalf of the U.S. Department of Education (the "Department"), I thank you for the opportunity to comment on the Government Accountability Office's (GAO) draft report, *Religious-Based Hate Crimes: DOJ Needs to Improve Support to Colleges Given Increasing Reports on Campuses* (GAO-20-6). Enclosed please find a redline that includes questions, comments, and suggested edits for GAO's consideration along with a separate document that contains additional technical comments.

As a threshold matter, the Department agrees with GAO that providing and sharing accurate information on religious-based hate crimes is critically important. To that end, the Department has raised questions about certain of the draft's sources and statistical information. Also, the Department notes with concern that the draft GAO report appears to sometimes conflate First Amendment-protected speech with criminal conduct under the rubric "bias incidents." By definition, "bias incidents" are not crimes. If GAO believes a lengthy discussion of such incidents in a hate crimes report is appropriate, then the Department suggests more analysis of the intersection between "bias incidents," hate crimes, the First Amendment, and Executive Order 13864, might be proper. Finally, the Department believes GAO should strongly consider omitting or revising the draft's "bias response team" discussion to acknowledge recent adverse legal authority.

Again, the Department truly appreciates GAO's consideration of our comments on this important draft report. We are available to respond to any questions and would welcome the opportunity to meet with you to discuss our comments and concerns in more detail.

Sincerely,

A handwritten signature in blue ink, reading "Reed D. Rubinstein".

Reed D. Rubinstein,
Principal Deputy General Counsel delegated
the Authority and Duties of the General Counsel

Enclosure

400 MARYLAND AVE. SW, WASHINGTON, DC 20202-2100
www.ed.gov

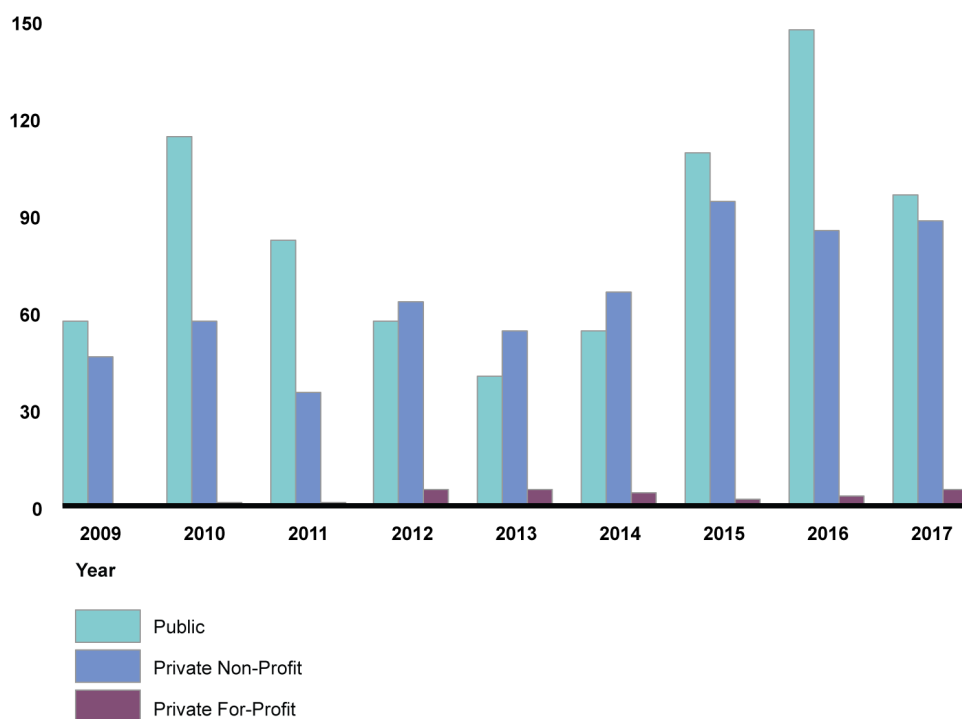
The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Appendix III: Additional Data Reported to the Department of Education (Education) on Religious-based Hate Crimes on College Campuses, 2009-2017

Over 55 percent of reported religious-based hate crimes on college campuses occurred at public colleges (see fig. 13).

Figure 13: Religious-based Hate Crimes on College Campuses Reported to Education, by Institution Type (Public or Private), 2009-2017

Number of reported religious-based hate crimes



Source: GAO analysis of U.S. Department of Education (Education) data. | GAO-20-6

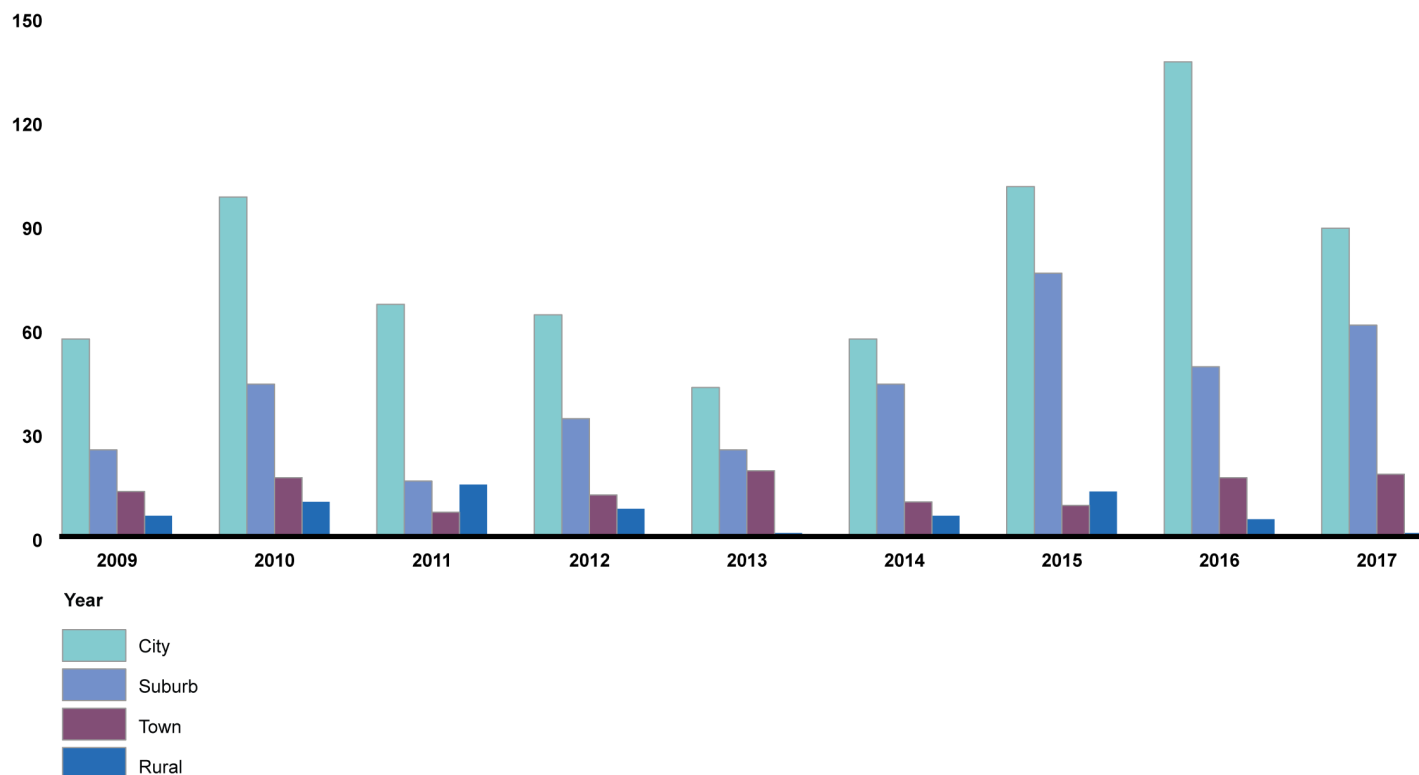
Note: Colleges participating in federal student aid programs are required to submit hate crime data to Education. Colleges are to submit to Education data on alleged crimes that have been reported to certain campus authorities or local law enforcement. Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.

Almost 56 percent of reported religious-based hate crimes occurred at colleges located in cities, followed by suburbs (over 29 percent) (see fig. 14).

Appendix III: Additional Data Reported to the
Department of Education (Education) on
Religious-based Hate Crimes on College
Campuses, 2009-2017

Figure 14: Religious-based Hate Crimes on College Campuses Reported to Education, by College Location Type, 2009-2017

Number of reported religious-based hate crimes

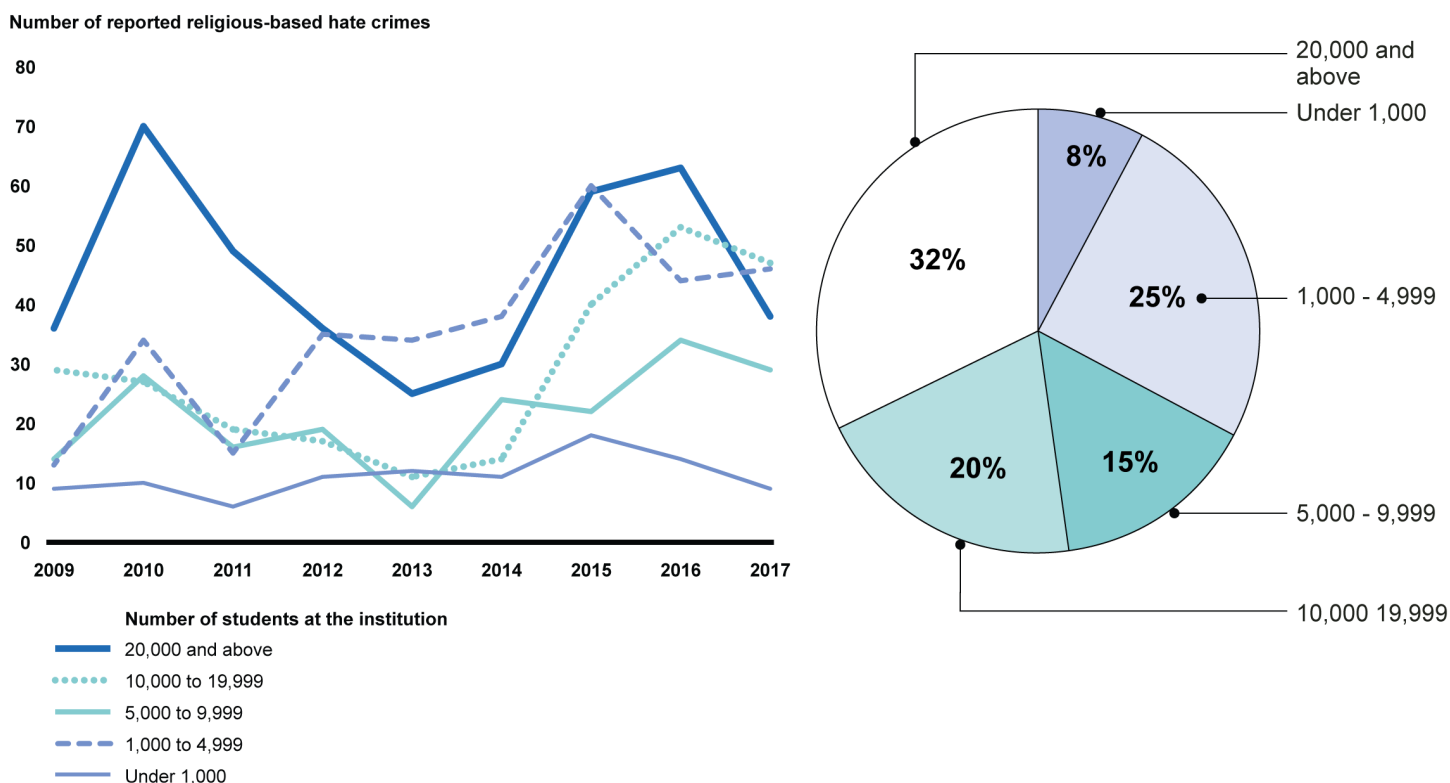


Source: GAO analysis of U.S. Department of Education (Education) data. | GAO-20-6

Note: Colleges participating in federal student aid programs are required to submit hate crime data to Education. Colleges are to submit to Education data on alleged crimes that have been reported to certain campus authorities or local law enforcement. Education's data defines a "city" as inside an urbanized area and inside a principal city; a "suburb" as inside an urbanized area and outside a principal city; a "town" as inside an urban cluster; and "rural" as census-defined rural territory. Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.

Almost 32 percent of reported religious-based hate crimes occurred at colleges with 20,000 or more students (see fig. 15).

Figure 15: Religious-based Hate Crimes on College Campuses Reported to Education, by Institution Size, 2009-2017



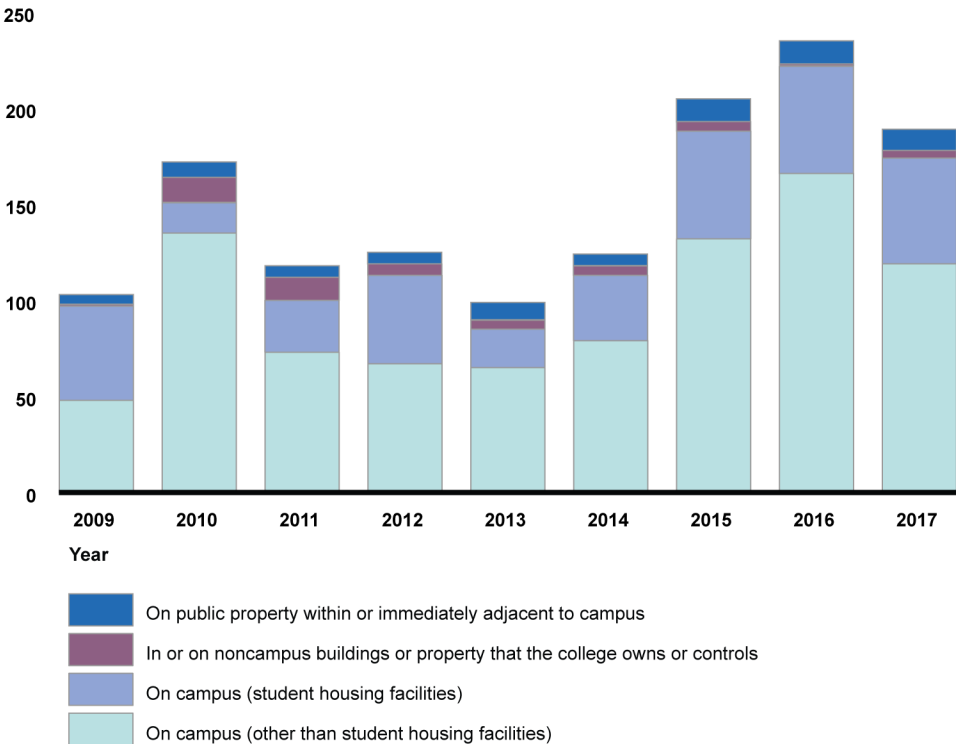
Source: GAO analysis of U.S. Department of Education (Education) data. | GAO-20-6

Note: Colleges participating in federal student aid programs are required to submit hate crime data to Education. Colleges are to submit to Education data on alleged crimes that have been reported to certain campus authorities or local law enforcement. Campus hate crime data reported to Education included (1) on campus (including the subset of crimes that occurred in on-campus student housing facilities), (2) on public property within or immediately adjacent to campus, and (3) in or on non-campus buildings or property the college owns or controls.

Over 29 percent of reported religious-based hate crimes on college campuses occurred in residence halls (see fig. 16).

Figure 16: Religious-based Hate Crimes on College Campuses Reported to Education, by Location of Crime, 2009-2017

Number of reported religious-based hate crimes



Source: GAO analysis of U.S. Department of Education (Education) data. | GAO-20-6

Note: Colleges participating in federal student aid programs are required to submit hate crime data to Education. Colleges are to submit to Education data on alleged crimes that have been reported to certain campus authorities or local law enforcement. Public property includes thoroughfares, sidewalks, streets, parking facilities, or other public property that is within the campus, or immediately adjacent to and accessible from the campus. Noncampus buildings or property includes (a) buildings or property owned or controlled by officially recognized student organizations, and (b) buildings or property owned or controlled by the college that are used in direct support of, or in relation to, the college's educational purposes, are frequently used by students, and are not within the same reasonably contiguous geographic area of the college.

Appendix IV: GAO Contact and Staff Acknowledgments

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